

## MINUTES

### **FINANCE & ECONOMIC DEVELOPMENT (TOURISM / VISITOR INDUSTRY / SMALL BUSINESS DEVELOPMENT / SPORTS & RECREATION DEVELOPMENT / OTHER ECONOMIC DEVELOPMENT AREAS) COMMITTEE**

October 15, 2014

A meeting of the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee of the County of Kaua'i, State of Hawai'i, was called to order by Mason K. Chock, Sr., Chair, at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, October 15, 2014, at 11:04 a.m., after which the following members answered the call of the roll:

Honorable Gary L. Hooser  
Honorable Ross Kagawa  
Honorable Mel Rapozo  
Honorable JoAnn A. Yukimura  
Honorable Mason K. Chock, Sr.  
Honorable Tim Bynum, Ex-Officio Member

Excused: Honorable Jay Furfaro, Ex-Officio Member

#### **PUBLIC COMMENT.**

Pursuant to Council Rule 13(e), members of the public shall be allowed a total of eighteen (18) minutes on a first come, first served basis to speak on any agenda item. Each speaker shall be limited to three (3) minutes at the discretion of the Chair to discuss the agenda item and shall not be allowed additional time to speak during the meeting. This rule is designed to accommodate those who cannot be present throughout the meeting to speak when the agenda items are heard. After the conclusion of the eighteen (18) minutes, other members of the public shall be allowed to speak pursuant to Council Rule 12(e).

There being no objections, the rules were suspended to take public comment.

**GARY PIERCE:** Good morning, Comrades. My name is Gary Pierce for the record. Specifically I would like to talk about Bill No. 2560, Bill No. 2559, Bill No. 2570, basically the tax bills coming up. Bill No. 2560 is another Bill to create two (2) new tax classifications which I am against. This is more class warfare. It is contraindicated and it says it will provide for long term rental classification. No homes would qualify for renting rooms without a kitchen under the affordable long term rental classifications. Most homes are not zoned for two (2) kitchens therefore would not qualify for the long term affordable rental under this

Bill. This Bill has lots of loopholes, lots of exemptions. When you try to manipulate people, that is when you get these unforeseen consequences. Please vote no and say yes to keeping housing affordable is another lie in this Bill. Bill No. 2559 is another new classification. Residential investor in use get ready for your proctology exam. A full home survey for use done by a prejudicial, non-elected government bureaucrat that has a vested interest to raise taxes and from page 2, this is prescribed in the Bill, "shall prescribe form of application." That means he must do it. "And may establish administrative rules." This is a bureaucrat that is not even voted on. What about my civil liberties? My economic liberties? This Bill violates civil rights and socialism with a peeping tom. This is without your vote. These people are coming around currently right now. I have hang tags that they are posting, coming onto properties. I have got E-mails. Let me read one (1) E-mail. Some guy named Howard just snuck up on me with this clipper at my doorstep disregarding the rope at the entrance, just marched in. I have got other E-mails. This is just...who authorized this? What is going on? Anyway, another tax bill. You have something here about the Transient Vacation Rental (TRV). This whole issue is due to bad property tax law. As you have seen and heard in testimony, most taxpayers rented a room or a piece of property just to pay the bills not to become hotel owners. The power to tax is the power to destroy and you are going to see this coming up. The worst bills I have seen is Bill No. 2546. This is a real property tax, a new category of real property to tax agronomics. The definition of agronomics is a noun, as a branch of the economy dealing with the distribution, management, and productivity of land. This agronomics bill has no definition of what should be taxed. Only a definition of what agriculture is not. This Bill stifles small farmers, self sufficiency, and backyard gardens.

Lori L. Marugame, Council Services Assistant: Three (3) minutes.

Council Chair Furfaro: Excuse me, Gary, that was your three (3) minutes. I do not have anybody else signed up but please summarize in the next three (3) minutes.

Mr. Pierce: Can I finish on this one (1) bill and then I will summarize?

Council Chair Furfaro: Yes.

Mr. Pierce: Thank you so much, Sir. The seed companies...okay, let me start back. Supposed to tax large property owners and seed companies. It does not. In my opinion it is a tax give away to large seed companies landowners. Page 4 paragraph 3, I am going to paraphrase, less than one hundred (100) acres. It must be entirely in cultivation. If it is more than one hundred acres (100) it has to be one hundred (100) acres or fifty percent (50%) whichever is more. This cripples small farmers and landowners. It is improper management for (inaudible). Anyway I am not going to...please vote no on this Bill. The low income tax credit, this has the wrong name. This should be weaponize the property tax by votes through tweaking. It sounds like you guys are on drugs. Vote no on Bill No. 2546, Bill No. 2558, Bill No. 2559, and Bill No. 2560. Please put in a comprehensive cap for the taxpayers and a cap for government spending. If this does not happen this is nothing more than economic terrorism. What is the

difference between taxed out of you home in three (3) years or being bombed out? Thank you very much for the extra time. I do really appreciate that, Jay. Can I say one (1) other thing?

Council Chair Furfaro:                      Make it quickly, Gary.

Mr. Pierce:                                      You are very soft spoken and if it was not for some of the things that you said I would not even know about the budget. I really appreciate what you do for the budget and what is trying to happen right now. That is all I have to say.

The meeting was called back to order, and proceeded as follows:

Minutes of the September 17, 2014 Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee Meeting.

Upon motion duly made by Councilmember Rapozo, seconded by Councilmember Hooser, and unanimously carried, the Minutes of the September 17, 2014 Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee Meeting was approved.

There being no objections, the Committee recessed at 11:04 a.m., to convene in the Committee of the Whole.

The meeting was called back to order at 1:39 p.m., and proceeded on its agenda item, as shown in the following Committee Report which is incorporated herein by reference:

**CR-FED 2014-35:** on Bill No. 2553

A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2014-782, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2014 THROUGH JUNE 30, 2015, BY REVISING THE AMOUNTS ESTIMATED IN THE BOND FUND (*Bond Fund – CIP, Fuel Tanks Hanalei Baseyard - \$9,755*) (**Approved.**)

The Committee proceeded on its agenda item, as follows:

Bill No. 2557

A BILL FOR AN ORDINANCE AMENDING  
CHAPTER 5A, KAUAI COUNTY CODE  
1987, AS AMENDED, RELATING TO REAL  
PROPERTY TAXES (*Low Income Tax  
Credit*) **(This item was Deferred.)**

Councilmember Yukimura moved for approval of Bill No. 2557, seconded by Councilmember Kagawa.

Councilmember Kagawa:           Seconded for discussion.

Committee Chair Chock:           Yes, Steve, can you come up?

There being no objections, the rules were suspended.

Councilmember Yukimura:       Steve, can you give us a summary of what this Bill would do?

STEVEN A. HUNT, Director of Finance:     Proposed Bill No. 2557 is a tax credit bill for very income property owners. I view this as an additional measure to the two (2) income based approaches that we already have which is the Home Preservation Limit which requires homes to have a net taxable value above seven hundred fifty thousand dollars (\$750,000) and the income exemption which is a reduction in value from the property which is a hundred twenty thousand dollars (\$120,000) reduction for those that are earning eighty percent (80%) or below of the gross median household income. What we found is there are instances where the threshold has not been met by the seven hundred fifty thousand dollars (\$750,000) that may have, even including the income exemption net taxable in the neighborhood of six hundred thousand dollars (\$600,000) to seven hundred thousand dollars (\$700,000) and the taxes associated with that in proportion to their income is very large. This is another measure that would target the very low income at fifty percent (50%) of the median income and below, I believe that number is about thirty-five thousand dollars (\$35,000) and below that would provide additional relief and not tie it to value anymore. They would pay based on a percentage of their income.

Councilmember Yukimura:       Do we know how many people are in this category?

Mr. Hunt:                       We do not. I did take a sampling from our current income exemption applications and we have as of 2014 tax year, there were thirteen hundred and ten (1,310) property owners that qualified for the eighty percent (80%) and below. I made an assumption that somewhere in the neighborhood of thirty percent to forty percent (30% - 40%) of those that applied for the eight percent (80%) and below would also qualify for the fifty percent (50%) and

below. I took a sampling of twenty-two (22) properties that were thirty-five thousand dollars (\$35,000) gross income and below to see who would benefited from that. Many of them who are in lower valued properties, the exemption itself benefits, they do not need the additional but the ones that I did find, there were eight (8) out of the twenty-two (22) that would have benefited and the average of the benefit was over a thousand dollars (\$1,000) – I think a thousand eighty dollars (\$1,080). In rough magnitude, if I figure thirty percent to forty percent (30% - 40%) of the eligible owners and at a beneficial rate of about thirty-five percent (35%) of those qualifying and benefiting from it, results roughly in a range of about a hundred and fifty thousand (150,000) to two hundred thousand (200,000) in tax credits that we would be looking at for the next year.

Councilmember Yukimura: What is the number of people or households that it represents?

Mr. Hunt: Again, from what I have, we know that one thousand three hundred and ten (1,310) in 2014 qualified for the income exemption but we do not have an accurate number without actually going and pulling individually all thirteen hundred (1,300) and finding out who is below the thirty-five thousand dollar (\$35,000) threshold.

Councilmember Yukimura: Right. If they qualify, then they get a tax credit?

Mr. Hunt: Yes their taxes will be based on three percent (3%) of their gross income rather than the calculated market taxes.

Councilmember Yukimura: Okay. Thank you very much.

Committee Chair Chock: Councilmember Kagawa.

Councilmember Kagawa: Continuing what Councilmember Yukimura asked, so you said you did a sampling of twenty-two (22)?

Mr. Hunt: Twenty-two (22) properties.

Councilmember Kagawa: How much of the twenty-two (22) would qualify?

Mr. Hunt: Eight (8) of the twenty-two (22) which is thirty-six percent (36%). I used thirty-five (35) for roughly.

Councilmember Kagawa: Thirty-six percent (36%) of the total number of low income was how much?

Mr. Hunt: No, thirty-six percent (36%) of the ones that were already below fifty percent (50%). We set a dollar threshold of thirty-five thousand dollars (\$35,000), we pulled twenty-two (22) property owners that had thirty-five thousand dollars (\$35,000) and below, and eight (8) of those twenty-two (22) would have benefited more by having a tax cap or a credit as opposed to the income exemption itself.

Councilmember Kagawa: How much is thirty-six percent (36%) of the total number? That would give me an estimate of how much households we are helping.

Mr. Hunt: Yes, but what I am looking at is if we use thirty percent (30%), we are looking at three hundred ninety-three (393) potential of which thirty-five percent (35%) may benefit, so a hundred and thirty-eight (183) on the low-end. If we use forty percent (40%) of those being eligible with, again, thirty-five percent (35%) of those qualifying, it is about a hundred and eighty-three (183).

Councilmember Kagawa: And the total savings was how much? I mean the total lost to the County would be how much?

Mr. Hunt: The average savings for this...and they range anywhere from...the low was a hundred and forty-one dollars (\$141) to a high of over two thousand dollars (\$2,000) but the average of those eight (8) was about a thousand and eighty dollars (\$1,080). Roughly a thousand per taxpayers' savings. Again, on a global...assuming these numbers and assumptions are correct, we are looking at potential relief in the neighborhood of about a hundred and fifty thousand dollars to two hundred thousand dollars (\$150,000 - \$200,000).

Councilmember Kagawa: My common sense question is if you have a potential savings of two thousand dollars (\$2,000), how in the world did they buy the house in the first place?

Mr. Hunt: Yes.

Councilmember Kagawa: I prefer the answer to come from Mr. Hunt.

Mr. Hunt: It is one of those ones where value may have been low when they owned the house and it had become a more popular area and the values may have increased dramatically.

Councilmember Kagawa: Okay.

Mr. Hunt: It is also a nice bridge for people who are on the cusp of that seven fifty range that could get into the home preservation limit, maybe one year they are in and one year they are out, so if you are really close to that range, this program would be a similar substitute because both of them have a three percent (3%) of requirement. Again, if someone is really close to it, this would be a preferable means to assure the stability that you are going to be paying on your income as opposed to value.

Councilmember Kagawa: What stimulated bringing this Bill before the Council?

Mr. Hunt: Partly through some of the inquiries that were sent over by Councilmembers from taxpayers in looking at who really benefited or did not benefit from some of the other relief measures. Even though they had the income exemption, they still got a big increase in their taxes. There is a gap saying, okay, we recognize that even though you may qualify for two hundred thousand dollars (\$200,000) in age exemption and the hundred and twenty thousand dollars (\$120,000), that three hundred and twenty dollars (\$320,000) in context of a million dollar property, you are still paying six hundred eighty thousand dollars (\$680,000) in value, is still significant to them.

Councilmember Kagawa: In response to that, I am glad that we had problem arise to us. We gave it to you and you found some solutions for those who are really below that income that cannot pay. Thank you for proposing this. Thank you.

Committee Chair Chock: Councilmember Rapozo.

Councilmember Rapozo: Section 2 of this amendment, this confuses me when I read it. What is the median income?

Mr. Hunt: Section 2, this is upon proper application, is that what you are reading?

Councilmember Rapozo: Right. What confuses me is where it says, okay, basically anybody that do not exceed fifty percent (50%) of the median household income. What number is that? Is that the thirty-five thousand dollars (\$35,000) that you talked about?

Mr. Hunt: That comes from the Housing Agency. They actually provide a figure to us. The hundred percent (100%) median income is somewhere around seventy-one thousand dollars or seventy-two thousand dollars (\$71,000 – \$72,000).

Councilmember Rapozo: Okay.

Mr. Hunt: I know from this year's applications is fifty-six thousand two hundred (56,200) so I kind of backed into the thirty-five thousand one, if you actually...

Councilmember Rapozo: Any homeowner with a household income less than thirty-five thousand dollars (\$35,000) would qualify and they could apply. This is where I get confused, it says, "shall be entitled to a credit in the amount that the real property tax assessed in the homeowner property for the current year exceeds three percent (3%) of the household income."

Mr. Hunt: Right.

Councilmember Rapozo: I do not understand that.

Mr. Hunt: It is the differential between the market tax, if you will, that is the real property tax assessed on the homeowner is market right now. And the difference between that and what three percent (3%) of the reported gross income would be. So in the case where you had a market tax of two thousand dollars (\$2,000) and you had twenty thousand dollars (\$20,000) gross income, you are three percent (3%) of twenty thousand dollars (\$20,000) is six hundred dollars (\$600). The difference between six hundred dollars (\$600) and the two thousand dollars (\$2,000) is what your credit would be, that would be the fourteen hundred (1,400), that would be established in what your credit is.

Councilmember Rapozo: Would they not qualify for the two fifty cap?

Mr. Hunt: Okay, we are talking about one is a program change which would be effective potentially for the 2015, the Fiscal 2016 and the credit is sort of the retro on the 2014. This is not additional relief for 2014. This is a program for people to get additional credit so that we are not in the same situation for next year.

Councilmember Rapozo: I do not know if that verbiage can be changed. Maybe it is just me but I do not understand the text in...based on what you just said it is and what is written. I do not see that. Maybe it is just me. If it is clear to you folks then that is fine – maybe it is just my problem. If I gave this to a member of the public, would they even understand? "Shall be entitled to a credit in an amount that the real property tax assessed on the homeowner property for the current year exceeds three percent (3%) of the household income." So three percent (3%) of...let us say thirty thousand dollars (\$30,000), it would be nine hundred dollars (\$900).

Mr. Hunt: So what this does is it establishes the amount of the credit and it is the differential between the three percent (3%) of your household income and what you are actually assessed based on market.



Councilmember Rapozo: Okay. I understand what you are saying...I am not sure if that is what this says. I will think about it. Thank you.

Committee Chair Chock: Councilmember Yukimura.

Councilmember Yukimura: I am beginning to see what Councilmember Rapozo is talking about. Is it a credit in the amount that was assessed or that was taxed?

Mr. Hunt: No, it is the differential between what was assessed and what we would actually bill based on the percentage of the income. Because it is something that we are going to measure like we did in the past; what was the PHU credit? It was a credit against the market tax. So there was actually a measurement of the credit. This would be the same thing. We would report what the estimated market tax would be but then as an offset we would show what the credit is on a parcel basis and then at some point, as an aggregate when we are sending you the estimated taxes for the budget.

Councilmember Yukimura: I think maybe taking a real life example would be helpful but I mean I too am very thankful for this and I think the distinction is that this is a system change versus the two hundred fifty dollars (\$250) cap which is an interim relief, right? That is the difference between the two (2) bills and they would apply to different tax years. The interim relief would apply to the 2014 tax year, this would apply to 2015 tax year, and beyond unless changed.

Mr. Hunt: Correct.

Councilmember Yukimura: Okay. Actually this Bill is being introduced by Council Chair.

Mr. Hunt: Correct, I did not draft the Bill.

Councilmember Yukimura: So it is actually a Council initiative but with your help in trying to make sure that it would achieve its goal without unintended consequences. The taxpayer would have a choice between this...if they qualified for both the home preservation and this, they would have a choice then...whichever one works best for them?

Mr. Hunt: Correct. The home preservation has more stringent requirements, the 10-year minimum ownership because typically the credits are much larger as well. But this sort of as that gap proposal provides some similar relief on an annual basis that they could apply for those with very low income.

Councilmember Yukimura: And this requires that they submit their income taxes as proof every year? Does it?

Mr. Hunt: I am looking through here...although I am speaking to 2015, I did not see an execution date here.

Councilmember Yukimura: Do you need a date if it is just going to apply prospectively?

Mr. Hunt: It says, "and shall be annually submitted by September 30<sup>th</sup> of the current year to be effective." We have already passed that date.

Councilmember Yukimura: Oh, I see.

Mr. Hunt: Immediately I am concerned about next year which was the intent.

Councilmember Yukimura: That is true.

Mr. Hunt: I can see that as we go forward but for the first year, because we are already passed that date, this would not do anything. With the intent of making it applicable to 2015 assessments, or the taxes I should say, not assessments in this case, that maybe we need a deferred end date for application.

Councilmember Yukimura: Yes, I think we should ask Staff to work on that if we intend for it to apply to the next fiscal year.

Mr. Hunt: Timing on this was not as vital as some of the other bills because it does not affect the notice of assessment. It affects the back-end tax. Again, we have some flexibility but at some point prior to the submittal of the tax role and the estimated revenue which is usually in February, we need to have all of this calculated.

Councilmember Yukimura: What do you suggest as an alternative date for the Fiscal Year 2015?

Mr. Hunt: I would say somewhere in the neighborhood of mid-January.

Councilmember Yukimura: We need to draft an amendment before we pass this Bill. Thank you, Steve.

Committee Chair Chock: Councilmember Bynum.

Councilmember Bynum: This is coming from Council Chair Furfaro's proposal, correct?

Mr. Hunt: Correct.

Councilmember Bynum: And it is consistent with targeted relief in an identified population. I maybe miss something. We need an amendment? What do we need an amendment for?

Mr. Hunt: What I do not see in here is an effective date of application and when it would start. It just talks about "September 30<sup>th</sup> for the current year," which 2015 is now passed.

Councilmember Bynum: Okay. Thank you. I am sorry. I missed that. That is it.

Committee Chair Chock: Councilmember Rapozo.

Councilmember Rapozo: Steve, let us say using the two thousand dollars (\$2,000) bill on a family that has thirty thousand dollars (\$30,000) a year annual income, the credit would be the two thousand dollars (\$2,000) minus the nine hundred dollars (\$900). Basically they would get eleven hundred dollars (\$1,100) of credit to be applied at the next year's tax?

Mr. Hunt: Correct.

Councilmember Rapozo: In essence their tax bill would be nine hundred dollars (\$900), that is what they would be required to pay?

Mr. Hunt: Yes.

Councilmember Rapozo: We are assuming that the two hundred fifty dollars (\$250) cap is temporary and it will not be here next year; that is what you are saying? I think realistically I do not think we will see any kind of tax reform in the tax year. I am assuming that I would have to believe that the Council next year, we would have to...I mean if we remove that two hundred fifty dollars (\$250) cap, we would be in the same boat.

Mr. Hunt: I would not even say remove. It is a one (1) time so you would have to reinstate another cap.

Councilmember Rapozo: Right and I do not imagine the next Council not doing that because it is the same problem, I guess is my point. These temporary fixes do not fix it, it just kicks the can down the road to next year.

Mr. Hunt: I guess interestingly there has been quite a bit of activity as you can imagine in Real Property Assessment of late and substantially more applications for the long-term affordable rentals for income relief so some of these may in fact fix themselves because people by the mere fact of getting a wake-up call with a higher bill, have now been in our office to see what relief is available. Some of these programs that are already in place may actually be functional in providing the kind of relief that it was intended for.

Councilmember Rapozo: Okay, so, is this Bill necessary?

Mr. Hunt: I still believe it is because you are going to have that gap people that have very low income and higher net taxable values even with all of the relief measures that are currently available.

Councilmember Rapozo: Okay. There is obviously going to be a reduction in revenue.

Mr. Hunt: Yes.

Councilmember Rapozo: And how is the Administration considering getting that back?

Mr. Hunt: At this point I do not...

Councilmember Rapozo: Are you going to transfer to the burden to another tax class?

Mr. Hunt: I do not have an answer for you at this point. We have already given one point nine so if these measures result in something...one point nine or something less than we are in the same position.

Councilmember Rapozo: Yes, that is my concern. We are hoping that it works out...we are hoping that the impact is not substantial but we do not know and we will not know. What it does is it puts us right back in the situation of scrambling to find more of these, what I call Band-Aid relief, and it concerns me. I know there is no way of you knowing. Obviously there is no way for you giving us a number because we do not know the annual income of these families.

Mr. Hunt: That is correct.

Councilmember Rapozo: I guess I am just concerned that we are putting Band-Aids on this situation, but anyway, I am done.

Committee Chair Chock: Just to follow-up and then I will hand the floor over to Councilmember Kagawa. It is good news that people are actually taking advantage of exemptions. Will that be able to help some projection moving forward?

Mr. Hunt: Once we have the assessment and the appeals out, and all the tax relief measures in place, it is not going to be until sometime in January that we will be able to tell you, even preliminary of where we are at.

Committee Chair Chock: Perhaps towards the end of January/February we will be able to get some indication of where we are headed and what we could anticipate in terms of the market.

Mr. Hunt: Correct.

Committee Chair Chock: And then there is a question about cost too. You talked about the cost to the office in its entirety but did that include administrative cost?

Mr. Hunt: In this particular Bill assuming we are getting another hundred and forty to a hundred and eighty (140 - 180) applications and they may already be coming in, in terms of these are the same group of pool of the thirteen hundred ten (1,310), it is just refiling into something that gives them a more meaningful relief as opposed to just knocking off a hundred thousand dollars to a hundred and twenty thousand dollars (\$100,000 - \$120,000) from value and still having a high taxable value. There are the same applicant, just applying for a different program that gives them a more meaningful relief, so I do not see really an expansion in the numbers or need for Staff to implement.

Committee Chair Chock: Easy to administrate, basically?

Mr. Hunt: Yes.

Committee Chair Chock: Okay. Councilmember Kagawa.

Councilmember Kagawa: What is the Kaua'i County Housing Agency affordable rental housing guideline median household income for a single person this year?

Mr. Hunt: For a single person?

Councilmember Kagawa: Is it...

Mr. Hunt: It is usually broken out. When we get the information from the Housing Agency if it is for the long-term affordable rental, it is by room type. It will tell you how much rent for a one-bedroom or a two-bedroom.

Councilmember Kagawa: But they use the adjusted gross of the tax return to determine how much their income is for a year?

Mr. Hunt: Actually, I think they use the gross. I do not think they use adjusted gross. And it is a number that usually comes from HUD because they are the one that does the study.

Councilmember Kagawa: Do you have any idea of what that number is? Is it thirty thousand dollars (\$30,000)? I heard Councilmember Rapozo say thirty thousand dollars (\$30,000).

Mr. Hunt: I can work backwards. I know that the...

Councilmember Kagawa: This is for people watching out there who has small gross income and are thinking I maybe can qualify for this very generous credit.

Mr. Hunt: Fifty-six thousand two hundred dollars (\$56,200) is the eighty percent (80%) median household income for Kaua'i.

Councilmember Kagawa: Fifty-six thousand two hundred dollars (\$56,200) for a single person?

Mr. Hunt: That is just the median household. It does not measure how many people live in the house. Of that fifty-six thousand two hundred dollars (\$56,200), if you divide by eighty percent (80%), it gives you a hundred percent (100%) of about seventy thousand two hundred fifty dollars (\$70,250). Half of that would be your fifty percent (50%), so, thirty-five one hundred twenty-five dollars (\$35,125) roughly.

Councilmember Kagawa: So maybe that is the median income – thirty-five thousand dollars (\$35,000)?

Mr. Hunt: Is half of the median.

Councilmember Kagawa: I mean, half of the median. So if your income does not exceed this number then you qualify for that.

Mr. Hunt: You would be eligible for this kind of relief, correct.

Councilmember Kagawa: I want to say that this is one of my issues with that cut-off at fifty percent (50%). If a family makes forty thousand dollars (\$40,000), they do not get this generous credit which is kind of like tax returns. To me a fair way is to have a scale version between thirty-five thousand dollars (\$35,000) and forty thousand dollars (\$40,000), you get a percentage of it. Not just cutoff everyone below thirty-five thousand one hundred twenty-five dollars (\$35,120) get the credit but if the guy makes thirty-six thousand dollars (\$36,000), he gets nothing. That is where my problem is with these cutoffs. It is just like federal taxes, right? If your joint is a hundred and ten thousand dollars (\$110,000)...

Mr. Hunt: You move into a new bracket.

Councilmember Kagawa: ...in your joint, you pay fifteen percent (15%) bracket. If you are over a hundred and ten thousand dollars (\$110,000), you are in the twenty-eight percent (28%) bracket. You can just be a dollar off and be in the next bracket. I guess that is how we got to do things, I guess. Thank you.

Councilmember Yukimura: For this low income additional category, this will be ongoing so that we just have to make the amendment for this next year and then it will be...

Mr. Hunt: You could do a sunset. You could have an amendment for the date that would bring us out to January 15, 2015 to have your application in and then we can process and calculate those credits.

Councilmember Yukimura: In response to the question raised by Councilmember Rapozo in terms of how we are going to handle the lost in revenue, I mean one of the options for the Council is to increase the tax rate on whatever category we want by even five cents (\$.05) or whatever and it would be across the board everybody paying for it rather than just a few individuals without hardly any impact, right? A few dollars from everyone could offset it. But, we can address it with rates or with an increase in exemptions. Now that we have everybody sort of an equal level, we do not have those huge disparities. Whatever relief we give will hit equally.

Mr. Hunt: More importantly whatever relief we give will hit the people that actually have proven they need to relief by showing they cannot afford it.

Councilmember Yukimura: This is moving us closer to the ability to pay for the low income people and in that way, it is giving them some protection.

Mr. Hunt: Yes.

Councilmember Yukimura: Okay, thank you.

Committee Chair Chock: Do we have an amendment? If there are no further questions, I would like to open it up for public testimony. Do you have something?

Councilmember Bynum: Just discussion.

Committee Chair Chock: Let me get public testimony out of the way. Is there anyone who would like to testify on this item? Mr. Mickens.

GLENN MICKENS: My testimony concerns all five (5) tax measures, it is fairly generalized. You have a copy of it. Last month the Council on this taped taxation called costs and the international property tax institute released a score card grading the States on our property tax administration practices, this is from the Hawai'i Free Press. Only five (5) States scored a "D" or "D+" and Hawai'i was one of the five (5). Of our fifty (50) States only Oregon scored a "B+" and it would certainly behoove us to look closely to see what we might use to improve our system which is not working. Yes, we had a two percent (2%) cap system in place for ten (10) years, that was working fine but politics entered the picture and this system was regrettably abandoned for a temporary two hundred fifty dollars (\$250) cap. Today's agenda includes multiple measures proposing minor changes in the property tax law. A sound tax system should be thoughtfully considered and not need this kind of tinkering as Mel was pointing out; the Band-Aid. We desperately need a task force which we talked about made up with intelligent neutral people like Walter Lewis and Carl Imparato to come up with an equitable and long term solution to a system that is broken. Let us put this task force together immediately to initiate a property tax system that will work well for the majority of our citizens and no, JoAnn, Proposition 13 did not bankrupt California as you keep on saying. It worked for forty (40) years and is still working. It helped keep my mother and father in their home. Irresponsible spending caused the financial problems in California, not Proposition 13. The cap does work and we should have kept ours as it was. Thank you, Mason.

Committee Chair Chock: Thank you. Anyone else would like to testify? No. I am sorry, Steve, I did have one question actually that I forgot to ask. In terms of timing you said that we got some time on this Bill, if we needed to have further discussion. I just wanted to be clear on what that time was.

Mr. Hunt: Yes, this is actually a tax credit so this does not get applied until the tax bills or just before the tax bills go out. The actual calculation once the rates are set probably will not happen until June. The only difference is, based on the current rates and what the estimated credits will be, normally when I report the estimated real property tax revenue to you for the March budget, that is kind of what I am shooting for is to be able to provide some sort of an estimate of the real property tax knowing what the credits are. We need some time to allow people to come in and apply for it and a little bit time to process



and then we will be able to provide that for you prior to the March 15<sup>th</sup> submittal for budget.

Committee Chair Chock: Thank you. If there are no further questions, we will call the meeting back to order for discussion.

The meeting was called back to order, and proceeded as follows:

Committee Chair Chock: I agree that we should be looking at everything and looking at it intently. Knowing that I am supportive of what I am reading and I am also supportive of other members wanting to feel comfortable about where we are headed and looking at all options. I am willing to take our time with it further, if necessary. I will open it up for discussion. Councilmember Bynum.

Councilmember Bynum: I just want to say that I am in total support of this proposal. It is consistent with what we learned. It is focused on, probably the most important thing that we want to make sure the people who are having challenges in our community feel safe and secure in their homes. I applaud this effort by Council Chair Furfaro and the work that Steve has obviously put into it. We get good analysis from him and that is all I need to say. Obviously we should wait to get it right because we have time and when we have time we should it to get it right.

Councilmember Yukimura: In dealing with all of the requests from various real property tax owners, I found places where the existing system is not working and that is for example this elderly woman living in Kapahi who has a very low income and her taxes went up from three hundred dollars (\$300) to a thousand dollars (\$1,000). I looked at all the relief programs and her property value is not up at seven hundred fifty thousand dollars (\$750,000) yet so home preservation does not work. This will very much help her and this is like interim relief for the people who need it, permanently, is what this is. So anybody who voted for the interim relief should be for this because it will give them relief beyond 2014 but as Steve pointed out it is target relief for those who really need it. It does not cut across the board for people and apply to people who have vacation rentals that bring in two thousand dollars (\$2,000) or ten thousand dollars (\$10,000) a week and so this is the kind of real property system that we want. This is one of the pieces that will make it a good system. We do have an amendment to address that issue of a "past application deadline for 2015," and it is ready.

Committee Chair Chock: I will entertain a motion to amend.

Councilmember Yukimura moved to amend Bill No. 2557 as circulated, as shown in the Floor Amendment which is attached hereto as Attachment 1, seconded by Councilmember Kagawa.

Committee Chair Chock: Are there any questions for the introducer? I think it was pretty self-explanatory.

Councilmember Hooser: I apologize coming in late to the discussion but it seems like I heard a few moments ago that there was no time pressure and then this says January 15<sup>th</sup> which seems...is this the time pressure that we have to pass it by January?

Committee Chair Chock: In order to make it in time for the following year. We wanted to put a date on it in order to...I do not know if I am explaining this correctly...to get it prepared for the tax proposed tax year. There is a deadline that was not submitted on the original bill that needs to be on.

Councilmember Yukimura: We need to pass this as soon as possible so people will now know what the deadline is and can apply for it. We do not want to pass this by January 15<sup>th</sup> because they will have one (1) or less than one (1) day to apply. The sooner we pass this then they will know they have between whenever this passes and the Mayor signs it into law, then they will be able to apply by January 15<sup>th</sup>. It will give them about two and a half (2 ½) months, three (3) months to apply, but we have to get the word out too.

Councilmember Hooser: It still seems to contradict what the Director of Finance says in terms of, "there was not a..." unless I misheard.

There being no objections, the rules were suspended.

Mr. Hunt: Just for clarification, when I say there is no time pressure, there is less time pressure because it does not affect the assessment notice which is something that goes out in mid-November. The tax credit would not be reflected on the assessment notice.

Councilmember Hooser: It goes out next month?

Mr. Hunt: Yes.

Councilmember Hooser: When would this have to be passed?

Mr. Hunt: From the processing standpoint, in order to reflect it on the estimated taxes that we provided for budget, it would have to be in the mid-January range for us to have something in February for the March submittal. If you wanted to give credit beyond that date then there would potentially be budget amendments between whatever the submittal is and that period. For convenience certainly, the quicker its passed, the more time we have to get the word out but January 15<sup>th</sup>, in my mind, would still be the application deadline for those that would qualify.

Councilmember Hooser: Thank you.

Councilmember Yukimura: January 15<sup>th</sup> does not become the application deadline until we pass this Bill, right?

Mr. Hunt: Correct.

Councilmember Yukimura: In order to give people time in which to apply, the sooner the better unless we have big problems with the Bill. To give people even a month to apply is a sort time especially if we have to get the word out before that. Thank you for clarifying that this Bill does not affect assessment notices and that is why...because if it did, it would be too late at this point, right?

Mr. Hunt: Correct. Other bills that are before you today have a very tight deadline because they have to be implemented and done prior getting the assessments out which is again, I believe, it would be the week of the 17<sup>th</sup> through the 21<sup>st</sup> – if I not mistaken of November to make our print deadline of sending the notices by December 1<sup>st</sup>.

Councilmember Yukimura: What is the drop dead deadline of us passing a bill that affects assessment notices?

Mr. Hunt: Depending on the work that is required in the bill itself. If it is extensive work, there may be some bills that are implementable as we speak.

Councilmember Yukimura: I see. Thank you.

Committee Chair Chock: Any further questions for Steve? Thank you for clarifying, Steve, I think the comparison of what we are needing to act on right now as opposed to the future is clear for all of us. We are in discussion right now.

The meeting was called back to order, and proceeded as follows:

Councilmember Kagawa: Thank you, Chair. I like the intentions of the Bill. I think the Bill really attempts to help those who need it the most. My only problem with the Bill is that it cuts off at a fixed amount of fifty percent (50%) of the median income. If we just estimate what it would be today, it would be about thirty-five thousand dollars (\$35,000) a year. We are making the assumption that everybody who makes less than thirty-five thousand dollars (\$35,000) are entitled to this very generous real property tax credit. And everybody over thirty-five thousand dollars (\$35,000) is not entitled to help; that they do not need any help with their property taxes. I think that is wrong. I think there are people just a little more than thirty-five thousand dollars (\$35,000), thirty-six thousand dollars

(\$36,000) or forty-five thousand dollars (\$45,000), you know, that are entitled to maybe not that generous of relief, but entitled to some relief. We live in the most expensive place in the world on Kaua'i and money is tight. If you hang around the people that I hang around with, money is tight and to just benefit one (1) sector that makes thirty-five thousand one hundred twenty-five dollars (\$35,125) or less, with a very generous credit and exclude everybody else that makes a dollars (\$1) more than thirty-five thousand one hundred twenty-five dollars (\$35,125), to me, is not fair. It is not responsible. Therefore, I will not be supporting the Bill at this time. I will look for a future meeting with Mr. Hunt to see if we can find a more innovative way to include, perhaps some incomes that are higher than thirty-five thousand dollars (\$35,000). Thank you.

Committee Chair Chock:                      Okay.        I will go to Councilmember Yukimura.

Councilmember Yukimura:        I would invite Councilmember Kagawa to propose an alternative but you have to draw the line somewhere. We drew the line at fifty-two thousand dollars (\$52,000) for the low income exemptions, and now we are drawing it even lower for thirty-five thousand dollars (\$35,000). Wherever you draw the line there is somebody above it and somebody below it. I would not want to delay the Bill or not pass it and not give the people that are below the line an option. They are, by definition, the lower end. That is the people we are trying to help. It is true, wherever you draw the line there is somebody above and below. I have not seen any suitable alternative to that.

Committee Chair Chock:                      I was wondering if I could just ask a question. Councilmember Kagawa, would you be open to...looking at the framework that we have before us...because I think what you have to offer is of value of trying to discern maybe some intermediate needs or some other classifications within. So maybe that some of what you are proposing could be worked within the current Bill and if there is more time necessary to do that, that is something you might support or not?

Councilmember Kagawa:                      Certainly I would like to see us perhaps because we live in an expensive place, I am looking at maybe seventy percent (70%) of the median income, I do not know what that number will be, whether it be fifty thousand dollars (\$50,000) or what have you, but to propose that amendment and not know what the impact is dollar-wise and without having exact numbers, I do not want to just propose an amendment that has ramifications that I cannot foresee. I think I need to sit down with Steve and perhaps his Real Property Tax Office and discuss some of the options that I have. I just have some concern that we are cutting it off and maybe we should be including some of those incomes up to fifty thousand dollars (\$50,000) for median income. I do think up to fifty thousand dollars (\$50,000) is really not much for people. I would like to see them get some benefit. Maybe not that huge nine hundred dollars (\$900) benefit as

Councilmember Rapozo is speaking of, but at least four hundred dollars (\$400) or something. Thank you.

Committee Chair Chock: Councilmember Bynum.

Councilmember Bynum: I think this is helpful discussion. Right now we have median income, it is set every year, it is about seventy-seven thousand dollars (\$77,000) for a household. At fifty-seven thousand dollars (\$57,000), we kick in a hundred ten thousand dollars (\$110,000) tax exemption. At the three dollars five cents (\$3.05) tax rate is worth about three hundred forty dollars (\$340). So, we are saying...and it is true, fifty-eight thousand dollars (\$58,000) you do not get that three hundred (\$300), but if you are at fifty-seven thousand dollars (\$57,000), you get three hundred (\$300). So there is somewhat of a graduated relief now. Now, if you fall below this calculation of fifty percent (50%) which we know is currently is at thirty-five thousand dollars (\$35,000), now we are not going to use an exemption, you actually have an option of using the exemption or taking three percent (3%) of your income. So, that would be different for each individual because maybe the income is twelve thousand dollars (\$12,000) and they will pay very low taxes, and maybe it is thirty-five thousand dollars (\$35,000). So, once you get to that credit, it graduated based on their individual circumstance, so there is a graduation now, but Councilmember Kagawa's point is well-taken. Sometimes there are points that you missed it by a couple dollars.

Committee Chair Chock: Go ahead.

Councilmember Rapozo: I have a question for anyone that can answer, I hate to bring up Steve, but the IRS tax form 4506T; does anybody know what that is?

Committee Chair Chock: Somebody does. I will suspend the rules again.

There being no objections, the rules were suspended.

MONA W. CLARK, Deputy County Attorney: I believe the 4506T is the request for transcript of tax return itself.

Councilmember Rapozo: So the applicant would not provide the tax return, they would just sign the request for transcript? Do we have to get the tax returns?

The meeting was called back to order, and proceeded as follows:

Committee Chair Chock: I have done it before.

Councilmember Rapozo: Whoever drafted the Bill, they can help me.

Committee Chair Chock: That is a request from the IRS to receive the documents.

Councilmember Rapozo: So the applicant just turns in a request for transcript and we...

Committee Chair Chock: It comes to us, yes.

Councilmember Rapozo: Okay. One of the things and again, it is just my police mind that...there are people out there that can put out a tax return that shows very low income for whatever reason but they are not needy. You could have people that have Trust Funds and so forth that could qualify because their tax returns show gross income of less than fifty percent (50%) median, I do not know if there is a way to protect against that but they are entitled to it. We talk about providing the help where it is needed but where is the safety net for that? Again, that is just my mind telling me, "Hey, you got a lot of people out here that can show a low income on a tax return but they may not be low income. They may be very wealthy people." I am asking the question, if anybody can answer that, I see Councilmember Yukimura raising her hand, maybe she has an answer.

Committee Chair Chock: Councilmember Yukimura.

Councilmember Yukimura: Yes, I am looking to Steve, because the way our tax laws now work and I think we have constructed it so that cannot happen. I mean I am telling you that the people that need this are really low income; the elderly, they barely get by, they are the kind of people that you are talking about, Councilmember Kagawa. They are actually lower than the kind of people you are talking about. I believe we do not allow additional income but I do not know the details and that is why...I do not know where Steve is but I think he could answer it.

Councilmember Rapozo: That goes with my earlier comments about not knowing the impacts. This thing looks really good on paper and it is not that I do not want to help the people who need it, but what are the impacts to the budget next year? We do not know by Steve's own admission and we will not know until this gets implemented. What happens next year? Councilmember Yukimura, she is just real simple, let us just raise taxes across the board and I am not supporting that. It is not that I do not want to help the people that are in need but I do not want to put out a Bill like this and all of a sudden we end up with two million dollars (\$2,000,000) or three million dollars (\$3,000,000) impact. We do not know. I get very nervous about passing bills. We just learned the hard way. If we are going to do a tax relief bill, we got to know impact because the next year, we do not have the two fifty (250) cap, we do not have all these measures, they are interim. What

happens to the next Council? What happens to the next year's taxpayer? Then we have to scramble again and that is my point. Councilmember Yukimura said, "Councilmember Kagawa, what is your proposed solution?" We did propose a solution, right? To restore the cap and start all over. But I think there is an opportunity here to have a graduated scale at fifty percent (50%) is three percent (3%) of your income, if it is sixty percent (60%), you change the percentage. So, everyone along that line will have some sort of relief but the problem that I see, and Steve is back in here now, Steve, I do not know if you need to come up because we can do this off-line. My concern is, does the 1040 tax return show all sources of income?

Committee Chair Chock: I think we got enough questions from a few Councilmembers that I would like to be able to vet. I will suspend the rules again, Steve, did you get the question?

There being no objections, the rules were suspended.

Mr. Hunt: Yes, whether the 1040 includes all sources of income. I guess the issue is when we look at income, we look at gross income, so we take all the schedules as well. The 1040 primarily shows the adjusted gross income and you will also see items that are non-taxable incomes. You may have bond income or annuities or other types of income that may have tax exempt status, so you are not actually using that in the computation of your adjusted gross which is your taxable income but from a gross income standpoint we do look at all sources so that bond income would actually be included. It is not a tax on wealth, so if someone has assets that are non-income producing and they just have a lot of wealth in asset-base but no income associated with that then would not be reflected in an income tax return.

Councilmember Rapozo: I guess that is my concern, Steve. How do we safeguard the County from any potential lost revenue because some wealthy person can submit a 1040 and show a very income, but have the ability to pay. How do we protect ourselves?

Mr. Hunt: We ask for the full return, so when you get into the schedule C's and look at other things like gross rents and maybe able to depreciate everything or write off a lot of expenses, some may even show negative income as far as their adjusted gross income, but their gross income is right off the top.

Councilmember Rapozo: And the 1040 provides that?

Mr. Hunt: The 1040...the full return. Not just the first two (2) pages.

Councilmember Rapozo: Well, I mean...is that what we are getting?

Mr. Hunt: For those people...yes, we are.

Councilmember Rapozo: And I am looking at the request for transcript, which says that we are requesting the 1040. What is the 1040? Does the 1040 include all the schedules?

Mr. Hunt: Yes.

Councilmember Rapozo: It does?

Mr. Hunt: Well unless you are at the 1040EZ.

Councilmember Rapozo: No, no. The 1040.

Mr. Hunt: Typically the 1040 will include the schedules.

Councilmember Rapozo: Okay.

Mr. Hunt: And that was our concerted effort where we did have some people; that in our mind, were abusing the system because they were able to have a very low adjusted gross income. That is when we made the move to go to a higher threshold, but make it gross income rather than adjusted gross income.

Councilmember Rapozo: What is legal and what is right are two (2) different things. We see that all too often where people take advantage of the benefit that they legally qualify for but yet, circumventing the intent and I think that is my concern, that you will see a lot of applications for people who have the ability to pay but on paper they do not.

Mr. Hunt: That is the big distinction between what is taxable income from the IRS standpoint and what is gross income for our perspective. We are two (2) separate agencies, we do not have the same set of rules, so we are looking at, "We do not care how creative your accountant is, we want to know what you have in cash flow gross income."

Councilmember Rapozo: Thank you.

Committee Chair Chock: Councilmember Bynum.

Councilmember Bynum: I want to follow-up on this because it is right in the Bill, the definition is gross income and not adjusted gross. Going back a few years we made this change because, and correct me if I am wrong, we had homes valued at seven million dollars (\$7,000,000) to ten million dollars (\$10,000,000) and they were paying virtually no taxes even though they had income over a hundred thousand dollars (\$100,000). Rich people do not get taxed on (inaudible) and it is



not part of the adjusted gross. We did fix this and we are doing it...and remember there was push-back people saying, "Hey, you used to just want my face sheet with the adjusted...and now you want...it is too intrusive." Well, no, not when you are skirting a thirty thousand dollars (\$30,000,000) tax bill that you could afford to pay, right? Have I got this right, Steve?

Mr. Hunt: Yes.

Councilmember Bynum: Okay.

Committee Chair Chock: Councilmember Yukimura.

Councilmember Yukimura: I knew there was an answer and I appreciate that we have thought about it so that this Bill, if passed, will actually go to the people who are, in fact, low income people. There was a question also about the fiscal implications which I believe you mentioned but let us get that clear again. You said potentially, though we will not know until the applications are in, potentially it is a hundred fifty thousand dollars (\$150,000) to two hundred thousand dollars (\$200,000)?

Mr. Hunt: That would be our best guest at this point.

Councilmember Yukimura: Which is very different from the six million dollars (\$6,000,000) impact that restoring the cap would have done. Thank you.

Committee Chair Chock: Thank you. Any further questions before I call us back to order? Seeing none, thank you, Steve.

The meeting was called back to order, and proceeded as follows:

Committee Chair Chock: We have an amendment on the table, I think the amendment is almost ministerial because it is identifying a date that is necessary for implementation. I would like to see that amendment move forward, if it is the interest of the body. If the Bill needs to be deferred for more discussion, or if anyone else want to add to it, I am open to that as well. If there is no further discussion on the amendment then we can call for a vote. Further discussion? No. Okay. Anybody else like to speak on this? No.

The motion to amend Bill No. 2557 as shown in Attachment 1 was then put, and unanimously carried.

Committee Chair Chock: Then we have the main motion to vote on.

Councilmember Yukimura: As amended.

Committee Chair Chock: I would like to entertain more discussion on the main motion, if not. Go ahead.

Councilmember Yukimura: I hear a desire to have more time for it, and maybe Councilmembers can confirm that, but I would then expect that in the next Committee Meeting there will be some amendments processed that we can consider because I do not mind people speaking against the Bill, but if they say there is an alternative, then let us see the alternative and be able to consider it. So, if there is going to be work on alternatives, then I am willing to defer it for two (2) weeks. If it is just a philosophical disagreement and there is not going to be alternatives, then I think we should just vote and see where the votes fall.

Committee Chair Chock: Okay, good. Councilmember Hooser.

Councilmember Hooser: I support what Councilmember Yukimura just said. I think that I do not want to pass up an opportunity to lower taxes for the very lowest income of our residents of our community, who we all love to talk about, our generous support of them. This opportunity will actually do something, not just talk about doing something. Is it a perfect measure? None of them are, but this is an opportunity to do something tangible and lower taxes for homeowners, which some of us have tried to do repeatedly over this past year, and not always been successful with the votes. So, I will be supporting it. This does not preclude Chair expanding it or introducing other measures or doing a full court press on our tax system, which I support. I think we should take the time and look at all of these things whether it is reform of whatever you want to call it, but I do not think we should stop helping people. I think if other members object or have other suggestions, I would like to see them on the table in the form of amendments or in the form of bills. There is a lot of talk, a lot of rhetoric, but I have not seen the solutions that have been proposed. I heard a few minutes ago that we did propose a solution to restore the cap and start all over. I do not think that is an accurate statement because I have not seen a bill that was suitable for passing at this point, and I have said repeatedly that I am willing to look at a bill, I am willing to have that discussion, but we need a vehicle. We need a bill that has the cost put into it that takes out whatever. It needs to be a bill in a position to pass. We do not have that and we have not had that. Again, I would be more than happy to have that discussion and consider all options, but for now, we have an opportunity to lower taxes for homeowners. I will support it enthusiastically. Thank you.

Committee Chair Chock: Councilmember Kagawa.

Councilmember Kagawa: Once again, the rhetoric is in the eyes of the beholder. With removing the cap, it caused all of these problems. We said that everything was going to be fine when we removed the cap, and it is not. We have piece-meal bill after piece-meal bill, Band-Aid after Band-Aid. Every time we bring these Band-Aids here, we rush. It is like today. We want to pass something out.

Just because we say it is going to help people, let us pass it out. When it comes to property taxes, we need to take our time. How many times do we have to fail before we will take our time and not just help one (1) section of our taxpayers? Good taxation is fair taxation across the board. Again, it is just about why do we choose to rush when it comes to taxes? I do not understand. We should be taking our time. Ten (10) years that cap was on. All of these Councilmembers say what a bad idea the cap was for ten (10) years. Then why did you not take it off earlier? You waited ten (10) years to let bad legislation continue? I mean, let us get real. Let us start taking our time when it comes to taxes, not just for this Council, but for the next Council, and I think we will get to a better place. We cannot just be rushing through measures as though we are panicking, trying to appease certain constituents. We have to take our time and look at the whole picture. What is the best for our County going forward because we will not want to keep putting Band-Aid after Band-Aid on our tax system? It is really stressful. It is stressful for the public. It is very stressful for Steve's office. I am sure it has probably been the worse year in the history of the Real Property Tax office, and why? Did it have to happen or could it be prevented if we had taken our time? Let us really look forward and stop pointing the fingers. Let us just take our time when it comes to our Real Property Tax. We need a reform. We need Real Property Tax reform, we can do it, it will take a lot of hard work, but it will be best for Kaua'i in the long run for all classes. Thank you.

Committee Chair Chock: I am sure everybody else wants to speak too now. So, I will go to Councilmember Bynum.

Councilmember Bynum: Rhetoric is rhetoric and truth is truth when it is backed up by audited statements and transcripts of the meetings that happened here, and recordation of votes. Mr. Kagawa just said "Let us stop pointing fingers" after he pointed fingers for five (5) minutes. He said, "Well, we said if we just remove the cap, it would all be good." I know what I said because I read it from the transcripts. What I said is, "If we remove this cap, seven hundred (700) people are going to have large tax increases and they are going to be upset." I put forward proposals to keep that from happening and put them on the table to lower taxes for the Homestead rate to keep that from happening; that is what happened this year. Councilmember Kagawa voted against lowering taxes for local people, as did Councilmember Rapozo. I got three (3) votes on that last year when I said the same thing. If we do not deal with this and we remove the cap without adjusting these things, these people will scream. It was predicted and two (2) years in a row I put forward proposals to keep that from happening. That is the facts. Those are facts. Thank you.

Committee Chair Chock: Okay.

Councilmember Rapozo: I have a comment.

Committee Chair Chock: Sure, I will let you have a comment. There is enough other bills for us to continue the rhetoric but I want us to move towards a vote here. That is what it seems like what the body is asking for.

Councilmember Rapozo: I hate Election years. What I heard Councilmember Kagawa say earlier was, "he wanted more time to sit down with Steve Hunt to talk about some other options," that is what I heard Councilmember Kagawa say. What you heard Councilmember Rapozo say was, "maybe we can have a graduated scale, maybe we can take a look at different options"...that is what I think Councilmember Kagawa and Councilmember Rapozo said. That is not rhetoric. Kaipō Asing came up and put the transcripts on the board, Councilmember Kagawa and Councilmember Rapozo asked for more time; thirty (30) days, just some time. But, no, the bill was passed. That is not rhetoric - that is fact; documented. I think it is very reasonable, I mean, you want to call for the question, you have the votes - it is going to pass. My concern again is I am not going to pass something today with incomplete information and wait until next time, I do not know if I will be here next term but if I am here, having to sit on this table and figure out where we are going to raise taxes next to accommodate the loss that was incurred because of this Bill. I do not want to do that. I am sick and tired of that. We come here scrambling, we got to do this now and then to say, not say but infer that maybe Councilmember Kagawa and myself do not want to give relief to the poor people. That is a misstatement and rhetoric. Two (2) weeks is fine, Mr. Hunt, said that. It is not a philosophical difference, it is a real difference, it is a financial impact question; what is the impact going to be to the people of Kaua'i next year? We will not know and we got to have a back-up plan. We got to have that plan from Finance if it is a hundred and fifty thousand dollars (\$150,000), this is how we plan to make it up. If it is five hundred thousand dollars (\$500,000), this is how we plan to make it up. It is very easy for Councilmember Yukimura to say, "we will just raise taxes, spread it across five percent (5%); everybody pay a little." Five percent (5%), is it really if you are on a fixed income? We talk like everybody has coin and I think Councilmember Kagawa talked about the circle of friends, relatives, and the influence he runs around with, probably similar to mine. They do not have extra money. They do not have...I mean if you add up all the tax increases and fee increases, it becomes a burden. If we cannot explain the impact on this seat today then we are not ready to pass the Bill. I support the concept of this Bill and I believe if people need the help, then we should be there to help them. Am I convinced that everyone that gets this credit should get the credit, I am not convinced of that. Am I convinced that we can absorb the fiscal impact next year? Remember now, all the other temporary measures go away, so you know those millions of dollars that we lost, we have to make that up somewhere. Maybe that is the reason for some of the other bills today, they see that we can go after someone else but the bottom line is that I do not know the impact. It is very difficult for me to cast a vote today. I would like to sit down with Mr. Hunt as well and look at a way to make it more fair for all low income people. I think Councilmember Kagawa hit it on the head. Forty thousand dollars (\$40,000) a year; annual household income, is

poverty. It is poverty. I know. I work a second job at night because I got to pay bills. I live pay check to pay check. We combined make more than forty thousand (\$40,000), so please, it is not a philosophical difference, it is just a difference in opinion and a willingness for me anyway to take our time, learn all the impacts, and then make a decision. I do not think two (2) weeks is too much to ask. I will definitely support a deferral.

Committee Chair Chock: Great. I am going to sound like Chair Furfaro, when he says, "I think I said earlier that I would entertain a deferral." I still am there. I need to hear the words to come out of someone's mouth to do that. I am going to allow Councilmember Yukimura who has not had a chance to close.

Councilmember Yukimura: Thank you because I also said that I was willing to defer for two (2) weeks if I could hear a commitment from those who are asking for time, that they will come back with amendments or alternatives. I know you wanted time to talk to Steve but I did not hear a commitment that you are going to come back with a proposal or an amendment. Even like the bill to remove the cap, there were many problems with it but we saw no alternative or amendments to make it something we could consider. It takes some work and I just want some assurance that that work will be done and that we will have something in two (2) weeks. If we could get it, you could have your deferral. I have one (1) more thing to say. All this thing about taking our time, well some of us have been taking the time for ten (10) years we have been taking the time. We have been working on this for many, many years and you know, where was Councilmember Kagawa when we were doing all this work, as a citizen, that is how I started, before I ran. I was out there participating and proposing ideas and advocating. Also, when someone comes in new then it is responsibility to find out what happened before they were here, you know, life does not start when any Councilmember takes office. One needs to look at what has been done and understand the different issues, so there has been a lot of time and effort and in fact, this has been a three (3) year process of putting in place a new system. One of the reasons we have not done it all at once is because something like this cannot be done all at once. There is a proper sequence that you have to follow in order to make it work. If fiscal impact is so important then where is the plan to handle the six million dollars (\$6,000,000) fiscal impact that restoring the cap would have done? I mean, there is a responsibility that you have to show that and we saw nothing of that. Why did we not take the cap off earlier? Because "caps" by their nature are really hard to remove. They keep...the longer you wait, the bigger the impact is going to be on those people that have been capped and so there is a huge pressure not to remove the cap. The discrepancy keeps growing over time which is why you do not want to put the cap back unless you are sure how it is going to operate because even if you said, like we did, this is a temporary measure, it will likely stay in place for ten (10) years and it will take extraordinary political courage to remove it and change the system. We cannot put the cap back without thinking about this but let us work with the system we have and I am all for looking at more comprehensive tax reform but let

us not throw the baby out with the bath water, let us pass the kind of relief we need to pass, and then study the system and see where the changes need to be done but make sure we know what changes we want to be done before we take action.

Committee Chair Chock: I need to end this though. We have gone far from the agenda item here and I need to reel us back in. I want to entertain a motion to defer. It can go on and on is what I am saying. If you have something that you would like to share that would help us get to a deferral...

Councilmember Kagawa: She asked me a question. I did not ask anybody else no questions.

Committee Chair Chock: Okay.

Councilmember Kagawa: If you ask me a question, I want to answer the question.

Committee Chair Chock: Okay.

Councilmember Kagawa: I do not rush with tax legislation. I take my time and two (2) weeks is rushing...I cannot guarantee you that I will have sufficient amendments that you want. Just to correct you, it took one point two million dollars (\$1,200,000) to remove the cap. My math tells me that it will take one point two million dollars (\$1,200,000) to put back the cap but I did not have my Staff draft all of the amendments to make it a one point two million dollar (\$1,200,000) bill because I did not have the votes. I do not waste staffs' time if I do not have to. Thank you.

Committee Chair Chock: Councilmember Hooser.

Councilmember Hooser: For the record, this is my second time, I think I am one of the only people that have spoken once.

Committee Chair Chock: That is true.

Councilmember Hooser: Again, I echo what Councilmember Yukimura said and it was very clear that if someone wants to propose an amendment that they think will improve this measure and they are willing to do the work, I am willing to support a deferral today. But just to talk about amendments or what you want to see, I do not think is a good use of our time. Looking over the record as Councilmember Bynum said, the budget was past how long ago, the cap was removed how long ago, and there has been plenty of time. Plenty of time for any Councilmember; months and months and month, a year actually on some of this stuff for Councilmembers to propose legislation or amendments to put the cap back or not put the cap back. Those amendments have

not be proposed. Those bills have not been proposed. To me, that is where the rub is. We sit here and talk about trying to do the right thing for the people by lowering taxes, trying to fix the tax issues and there is much and much rhetoric. I would like to see tangible proposals like what we are working on today, I have submitted several and some we are going to talk about later; many of us have, but I think that is where the discussion starts when a person puts something tangible on the table and that is what I want to see us work on. Not just the rhetoric. Thank you. If Councilmembers are serious about this, I would be happy to support a deferral. This has already been deferred once, so it had plenty of time for people to meet with the Director and to come up with solutions to any perceived inadequacies this Bill might have.

Committee Chair Chock:                      Councilmember Bynum.

Councilmember Bynum:                      I will try to make this the last time. People can just read the transcript of this meeting. Just a few minutes ago, I said, "Councilmember Kagawa, your concerns are legitimate. If you need more time and we have it, let us do that." Nobody resisted or tried to rush this through. Then when he took the floor it was like, "You guys said removing the cap would do this," and all of these factual things started coming up that were not factual. I am not a voting member of this Committee but I said, "Hey, you are raising good points, let us see if we have time, let us talk about it and see if we can make this Bill better." That is what happened, I remembered it, it was just a few minutes ago and it will be in the transcripts of this meeting.

Councilmember Yukimura:                      I want to make a motion.

Committee Chair Chock:                      Please.

Councilmember Yukimura:                      Out of courtesy Councilmember Kagawa and Councilmember Rapozo, I will move to defer but I really do feel that two (2) weeks is good enough time to develop some alternatives. It is not a very complex Bill. But I did not want to cut off any more discussion, Chair, but if you are ready for the motion, I will make it.

Upon motion duly made by Councilmember Yukimura, seconded by Councilmember Rapozo, Bill No. 2557, Draft 1 was deferred.

Bill No. 2546, Draft 1                      A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES (*Agronomics / Agricultural Use Definition / Reporting*) **(This item was Deferred.)**

Councilmember Hooser moved for approval of Bill No. 2546, Draft 1, seconded by Councilmember Yukimura.

Councilmember Hooser moved to amend Bill No. 2546, Draft 1 as circulated, as shown in the Floor Amendment 1 which is attached hereto as Attachment 2, seconded by Councilmember Yukimura.

Councilmember Hooser: If I may?

Committee Chair Chock: Yes, please.

Councilmember Hooser: This is primarily a housekeeping amendment which puts items that have already been passed into law into this Bill. So it is not substituting at all. Staff can correct me if I am wrong. That is correct. Thank you.

Committee Chair Chock: Any further discussion on this amendment?  
Councilmember Yukimura.

Councilmember Yukimura: Yes, I concur that it is housekeeping because the amendments are those that were made to the Residential Investor Bill which we already passed so I call for the question.

Committee Chair Chock: Any one else? Questions to the introducer on the amendment?

The motion to amend Bill No. 2546, Draft 1 as shown in Attachment 1 was then put, and carried by a vote of 4:1 (*Councilmember Kagawa voting no*).

Committee Chair Chock: Motion passes. We have more amendments yes? I think we want to take Councilmember Bynum's, is that right?  
Councilmember Hooser's.

Councilmember Hooser moved to amend Bill No. 2546, Draft 1 as circulated, as shown in the Floor Amendment 2 which is attached hereto as Attachment 3, seconded by Councilmember Yukimura.

Committee Chair Chock: Go ahead Councilmember Hooser.

Councilmember Hooser: This amendment redefines the applicability of the Bill and essentially says that the new tax classification shall include "parcels which are used for the purposes of supporting the research and cultivation of living organisms or plant materials whose deoxyribonucleic acid (DNA) has been manipulated through genetic engineering techniques resulting in the introduction of new trait(s) that do not occur naturally in the species and that are regulated by



the Federal Government.” So this applies to regulate it genetically modified crops as opposed to deregulated crops and also includes on the first page, to the middle of the page, the “name of each licensee” so the Department of Finance is required to submit reports so we are inserting that addition to these other reports they also name the lessee and the licensee which has been information missing in the past and Councilmember Bynum is not a member of the Committee but he has worked on this extensively. Can he offer comments on this?

Committee Chair Chock: Sure.

Councilmember Bynum: Yes. As I will get into in a few minutes there has been a number of County Attorney opinions, there have been questions when we floated this Bill that came from the landowners and all of that has been taken into consideration during this time and also having a pragmatic clear definition of what lands are included and what lands are not. All of those are incorporated into this amendment and I believe from my perspective with this amendment the Bill stands pretty solid. There may be other issues and so...and then I have a presentation that I can do later that goes into the rationale and the overall and some data that we have been seeking for over a year that has just been made available to us through the good efforts of Mr. Hunt.

Committee Chair Chock: Mr. Bynum would you like to do that presentation now?

Councilmember Bynum: Sure.

Committee Chair Chock: Okay.

Councilmember Bynum: I can go into that. So I prepared a three and a half (3½) hour presentation but I am going to do this in much less time than that. The staff has been really great in helping me narrow focus but we need to start with some context, just a general explanation. We have a whole bunch of agricultural land on Kaua'i and we have a program that has been in existence for many years that has overwhelming support from every Councilmember, every Mayor that has ever been, I believe, to incentivize the active use of our agricultural lands. We have set up a system called agriculture dedication. Most lands we do an assessed value and we get a market value of the lands and we apply the tax rate and that comes up with the tax bill for the property. When we do an agriculture dedication we say, “No, we are not going to set this value based on market value. We are going to set the value based on the product that the land is producing.” In the past we did studies and we determined that there were two (2) rates or two (2) ways to adjust the value. 1) For virtually anything that grows; flowers, coffee, sugar, whatever. A commodity that is sold for a profit and the Bill has been modified over the years to really focus on and so the whole premise of the dedication is you either get pasture which is at one (1) value or you get diversified agriculture which means other things

that grow but the overlay, and if you look at the administrative rules and this is the three (3) hour part I am not doing, it repeatedly goes back to show us the General Excise (GE), show us the cash product you are getting from this land because that is how we value it. I learned over the process of the last few years that much of our land had changed use. It was not in diversified agriculture producing a product or pasture. It was in a new use called research use. And that research use does not produce a product that is sold off of the land. It is using the land for research so how do you value it? If there is no product how do you value it? So that is kind of where I started and it leads to logical questions. What is the value of this use for research? How do you value it? What is the fiscal impact of this program overall?

If you could put up the one (1) sheet of paper. Over a year ago on September 30<sup>th</sup>, in preparation for this Bill I asked for information. What lands are dedicated to whom, where? Right? Of those lands that are dedicated what are the market value of the taxes? How much is the subsidy? Quantify the subsidy, the tax credits or in essence that we are giving. These are logical questions. What is the duration of the lease? What is the history of the use? When has it changed and how do changes impact values? Those are all logical questions for us to look at and so I asked for that. It is all public record and we are giving tax credits here that are recorded in the deeds. You know this is serious stuff that has to be calculated properly and the response to this memo was we do not know. We cannot tell you. We cannot give you this information. Even the aggregate, what is the total impact much less, the narrow down. Well that is still of a huge concern to me that we have...now instead of that I said just give me some of these and it is a year later and we still do not know. A couple of weeks ago I did a new request for this Bill and said what is the fiscal impact for these properties that are impacted and Steve Hunt has been doing yeoman's work and you can see how busy he is dealing with all of these issues and just literally during lunch today we finalized some really...numbers that some of which that are exact and some of which are very close or good enough for an analysis and I want to share that but the problem is that we did not have this data and we still do not have it total. We were able through tax records to get some big numbers. For the entire agriculture dedicated program, that is about one thousand nine hundred (1,900) parcels, I think, Steve has said. The subsidy that other taxpayers give is eight million five hundred dollars (\$8,500,000). That is a lot of money and I totally support most all of that subsidy because it is keeping agriculture lands in productions which is a very high value for our community and always has been. But this other use that does not produce a product that does not fit what are we going to do with it and that is what this Bill is about. Do we want to continue...well we need to learn some things about values and I am going to share some of that right now and do we want to continue to give this tax subsidy to a change of use of the land that has lead to a more intensive use and has lead to frequent spraying of pesticides that has been documented elsewhere? With that as an overlay I actually have to start with the last slide first. There are only a few slides but now this Bill with this amendment is very clear that this is about the seed company operations here on Kaua'i that have changed. The

use has changed. The rationale for this is that we are looking at a different change of use. The current valuations do not fit, that is clear, and so we need to take a look at this. It is not...I have been accused of targeting the seed industry. Well it is the seed industry that came here and made these dramatic changes in use that were different than what we had. It is not targeted at that industry; it is just where this change of use has occurred. Looking at the sixty-two (62) properties that are operated by seed companies in whole or part, the total acres of all of those parcels where they have some operation is forty-four thousand (44,000) acres. But the dedicated acres, so the acres that are actually being used for this research purpose is around twenty-four thousand (24,000). Now I was surprised by that because I have heard people say it is fifteen thousand (15,000) but this is according to our tax records and our best estimate that are not exact but pretty close. Of all of those properties the market value is two hundred twenty-four million dollars (\$224,000,000). Remember I said this was about value. We start with market value but then when you dedicate it you come up with this dedicated value based on the value of the product being produced. The dedicated value of that same parcel is one hundred nineteen million five hundred three dollars (\$119,000,503). If this subsidy were removed where all of the parcels that are applicable under this law the dedicated taxes are eight hundred seventy-nine (879) so the difference is seven hundred and fourteen thousand dollars and sixteen cents (\$714,000.16). So I said the whole subsidy for all agriculture dedicated properties like eight million five hundred thousand dollars (\$8,500,000). For those who are impacted by this Bill it is a total of seven hundred fourteen (714). Now with one (1) caveat there is one (1) parcel, the urban parcel here that accounts for over two hundred thousand (200,000) of that figure. So I told Mark Phillipson the other day at the farm fair that our best guess, which this is better than the best guess was that the impact on these lands was about five hundred thousand (500,000), so it was a pretty good guess because this is more accurate and if you eliminate that one (1) parcel that I have said from the beginning is extraordinary because of it being in urban.

I want to drill down so we can understand more about value. So that means I go back to the beginning of this and we now have some contracts that the seed company, in this instance Agrogenics or Dow has with the landowner. And the first thing you see is about license fee. This is the initial contract and so what is it. That was the logical question. If we cannot value the product what is the value of this lease? This starts to answer that question because the base term was four hundred seventy-five dollars (\$475) per acre for these five hundred twenty-nine (529) acres that are in this example. But in addition to the minimum fee there is a research fee. This says if licensee used a portion of the license premises for seed research crops in contrast to parent seed corn production at any time during the license year there is a additional annual fee of two hundred dollars (\$200) an acre. So the initial...at the beginning of this contract it was four hundred seventy-five dollars (\$475) or maybe up to six hundred seventy-five dollars (\$675) if that was used as research but we do not know how that is delineated in the contract requires them to report that to the less...requires the lessee to report it to the lessor. But then there

have been amendments to this contract and this is the most recent amendment. What they apparently have done is bifurcated the fees. Now there is a fee for land and a water charge. Licensees shall pay a water charge for agricultural water delivered to the boundary of a license property. So now we are in this 514 – 515 period so we know that there is a base three of three hundred forty-five dollars (\$345) and an additional fee at two hundred thirty dollars (\$230) for water delivery and then on top of that a research fee of up to two hundred dollars (\$200) an acre. So let us put that all together and say in this example this contract is for five hundred twenty-nine (529) acres of those twenty thousand (20,000). The initial lease payment at a minimum was two hundred fifty-one thousand dollars (251,000) a year for these five hundred twenty-nine (529) acres or a maximum of three hundred fifty-seven thousand dollars (\$357,000) depending on how much was used for this more intensive research use.

Ms. Marugame:

Ten (10) minutes.

Councilmember Bynum: I assume the landowner wants more money for that use because of the more intensive use but that is my assumption. The amended lease payment or what it is now is for this five hundred twenty-nine (529) acres a minimum payment is being paid to the landowner of three hundred four thousand dollars (\$304,000) and this is every year or a maximum of four hundred nine thousand dollars (\$409,000). So somewhere between three hundred and four hundred thousand dollars (\$300,000 and \$400,000) is the fee that the landowner is paying. Now normally this would be private information between two (2) parties but when you ask the County of Kaua'i to give you a tax subsidy and we have to know this information and so this is from public record. Preliminary tax estimates...so let us look at the five hundred twenty-nine (529) acres. The dedicated value...remember you have the market value based on highest and best use is one million seven hundred seventy-seven thousand dollars (\$1,777,000) but the dedicated value when you apply the agriculture dedication is one million fifty-nine thousand dollars (\$1,059,000). The market taxes would be twenty-four thousand dollars (\$24,000). So if this tax benefit or this tax subsidy was lifted from this five hundred twenty-nine (529) acres the impact on the landowner would be seventeen thousand dollars (\$17,000). This seventeen thousand dollars (\$17,000) is the difference between what they are currently paying so the owners receiving three hundred to four hundred thousand dollars (\$300,000 to \$400,000) a year for the use of this land and the lessee is being asked to pay seven thousand one hundred fifty dollars (\$7,150) in taxes. If this Bill were to pass in its current form the taxes on this particular lease would be twenty-four thousand five hundred fifty-four dollars (\$24,554) or a difference of seventeen thousand dollars (\$17,000). To me that is really important because how are we going to set the value well now we have a sense of what the value is and how are we going to...you know what is the tax benefit? That is what Tom and who is here in the audience they need to know. Steve has generated estimates for each of these sixty (60) parcels. I am not going to go into details because that is the three (3) hour version but in each one we could

look at a similar circumstance. To me this is a very modest proposal. The seed companies are very large operations here. We see that they are paying considerable sums of money for this use of the land and asking them to pay...and I am suggesting that we not continue to have other taxpayers in the County subsidize this particular use. I am not at all talking about any other agriculture dedication. If you are doing flowers, you are growing coffee, you are doing pasture, you are doing other things nobody I can imagine would want to change that. Let me also be clear that this Bill says these lands we will put in a separate tax category. It does not mean that we are going to tax that the same as the agriculture. That is up to the Council to decide at budget. It is just saying this use is different and so we want to put it in a different category and then we will determine what is appropriate. Do we want to continue to give subsidies for this use? We may. This Bill does not make judgments about that. It just says...well I have. I will be clear. I am not going to beat around the bush. I think that is what we should do. I think the landowner should pay this twenty-four thousand dollars (\$24,000), they can afford it because that is twenty-four thousand dollars (\$24,000) that is coming from our homeowners or other tax categories who do have to pay market taxes. They do not get this kind of subsidy. Do I want to continue to subsidize papayas, flowers, pasture, and cattle? You bet. Do I want to continue to subsidize the research use of the land that is a very more intensive use and is generating much more revenue for the landowners than pasture or diversified agriculture was? To me we have this amendment that solves that. I will close by saying I wanted to release and I said this a month ago all of these opinions that mostly were answering questions raised and concerns that came from landowners. Unfortunately I am not going to be able to do that. The paperwork was not processed in time for us to do that today but I feel comfort that the amendment that Mr. Hooser has out forward addresses all of those concerns.

Committee Chair Chock: Thank you for your presentation. If there are not any more questions for the introducer, I would like to call the Director of Finance up as well.

Councilmember Yukimura: That is what I wanted.

Committee Chair Chock: That is what you wanted. Okay. Steve.

There being no objections, the rules were suspended.

Committee Chair Chock: Councilmember Yukimura had her hand up first so we will go there.

Councilmember Yukimura: Okay, thank you. Steve, so these figures that were and maybe we can put them up on the screen that were in Councilmember Bynum's presentation, the market value is the accurate value to...that is something that you participated in determining.

Mr. Hunt: Yes. I did notice in the presentation itself that figure of one million seven hundred seventy-seven thousand four hundred dollars (\$1,777,400) actually only represents one (1) parcel.

Councilmember Yukimura: Can we get two (2) slides before...oh, I am sorry.

Mr. Hunt: That is the slide we need. That number is actually only one (1) of the three (3) parcels that were used. I believe and I know that Councilmember Bynum was rushed to get this out but I believe that is actually over three million dollars (\$3,000,000).

Councilmember Bynum: Which one?

Mr. Hunt: The one million seven hundred seventy-seven thousand four hundred dollars (\$1,777,400). That is the market value of just one (1) of the parcels. I believe that would be the last parcel on your list.

Councilmember Bynum: I did not get the aggregate total.

Mr. Hunt: Yes. But you did not add the other two (2) parcels which would have been one million one hundred ninety-five dollars (\$1,195,000) and six hundred sixty-five thousand three hundred dollars (\$665,300).

Councilmember Bynum: So this number should be...

Mr. Hunt: Sorry the totals would be one million five hundred fifty-two thousand three hundred dollars (\$1,552,300) plus six hundred sixty-five thousand three hundred dollars (\$665,300) plus the one million seven hundred seventy-five thousand four hundred dollars (\$1,777,400).

Councilmember Bynum: For about four million dollars (\$4,000,000)?

Mr. Hunt: Yes. When you look at the dedicated value and the market value it is only a seven hundred thousand dollar (\$700,000) difference it would not result in triple the taxes.

Councilmember Bynum: And that should have leaped out because the math does not work.

Mr. Hunt: It leaped out to me.

Councilmember Bynum: So to be very clear, this number is correct for all three (3) parcels?

Mr. Hunt: Yes.

Councilmember Bynum: But this number should have been about four million dollars (\$4,000,000)?

Mr. Hunt: Three million six hundred thousand dollars (\$3,600,000), I believe, somewhere in that range.

Councilmember Bynum: So that more dramatically shows how the dedicated valuation changes it. But these numbers are correct, right? The dedicated taxes...

Councilmember Yukimura: Market taxes are not.

Councilmember Bynum: And the market taxes are correct, right?

Mr. Hunt: The market tax is based on what would have been the three million six hundred thousand dollars (\$3,600,000), I believe, yes.

Councilmember Bynum: So it is this figure...

Mr. Hunt: It is that figure that is incorrect. That is only one (1) of the parcels that you asked to include.

Councilmember Bynum: And I want to say that Ashley put this in and I told her to put that one so it is my mistake.

Councilmember Yukimura: So if I may continue the questions.

Councilmember Bynum: Please.

Councilmember Yukimura: But the market tax represent three (3) parcels but the market value does not represent three (3) parcels? Is that what you are saying?

Mr. Hunt: Correct. The taxes on the dedicated value of the one million fifty-nine thousand dollars (\$1,059,000) represents three (3) parcels but the one million seven hundred seventy-seven thousand dollars (\$1,777,000) represents one (1) of the three (3) parcels market value.

Councilmember Yukimura: And so if we could go to the previous slide where you showed total acreage, total dedicated, market value, and dedicated value. It was one of your first slids. The market value there is correct Steve? I know these are all approximations.

Mr. Hunt: Yes approximately.

Councilmember Bynum: That is the whole sheet, yes.

Councilmember Yukimura: The market value, am I correct is under the present laws that regulate how agriculture land can be used reflects a highest and best use. Is that correct?

Mr. Hunt: Correct.

Councilmember Yukimura: So it would be reflecting the value of the land if it can be developed into agriculture subdivisions or country estates.

Mr. Hunt: And some of the lands like the urban pieces are not all in agriculture. There are other zonings and uses in there as well so it will take into consideration factors such as zoning.

Councilmember Yukimura: Right. But say a piece of land that is still zoned agriculture, it is still going to reflect an agriculture subdivision value at highest and best use?

Mr. Hunt: Correct. It would reflect what a market buyer would pay for the land as unencumbered as opposed to as encumbered by a lease or an agriculture use requirement.

Councilmember Yukimura: Okay. So the taxes then and depending on the rate of course but would be based on what an agriculture owner, agriculture landowner could get if they were to develop the property?

Mr. Hunt: Yes. It would be...I guess it would be the base because they would have to factor in absorption, development cost, all of those things so it would not be the aggregate amount of sales but rather where they think the land cost should be in order to provide them a rate of return of the certain threshold and some people just do it for land banking but ultimately in this stage with agriculture lands and the entitlements they currently have most are for future development, residential.

Councilmember Yukimura: Okay. I do have an amendment that I want to propose that would keep these lands in the agriculture exemption category but would create a different valuation that would reflect the higher lease rents. We could not go to market value. It would then be an agriculture valuation but at a higher level than pasture or diversified crop.

Mr. Hunt: I think I am supportive of that approach. I think the concern I have would be looking at in totality what is the cost of the...the



terms of the lease may be very different. So you may have one (1) where a small farmer may be charged water separately where as one (1) is built-in price per acre. It includes maybe unlimited water, it is not regulated. So you would have to determine the use. There could be other situations where the costs of maintaining the water system are born by the lessee. Really the terms...you cannot just use the number themselves on the lease necessarily to make those differentials and that would be my concern. To make sure that when we are comparing...to come up with the differential using that analysis that we are making sure that we are comparing apples and apples. That would be my only concern.

Councilmember Yukimura: So that would take...

Committee Chair Chock: I am sorry. *Kala mai*. We have to change the tape so can we come back to it in ten (10) minutes?

Councilmember Yukimura: Yes. Yes.

Committee Chair Chock: Okay. We are going to be at recess. Ten (10) minutes.

Councilmember Yukimura: And you are going to take a caption break as well?

Committee Chair Chock: Yes. We are going to do a caption break too. Let us do the caption break now too. Thank you. We will be back in ten (10) minutes.

There being no objections, the Committee recessed at 3:26 p.m.

The meeting was called back to order at 3:36 p.m., and proceeded as follows:

Committee Chair Chock: Welcome back from our break and we were in discussion with the Director of Finance. I think Councilmember Yukimura still has the floor.

Councilmember Yukimura: If I remember correctly, we were discussing market value versus agriculture valuation.

Mr. Hunt: Yes. We were discussing the potential of a third valuation category and how that might be developed within the agriculture classification itself.

Councilmember Yukimura: I mean I did say at the very outset when this Bill was introduced that I suspected that the leases by seed companies had increased lease rents by a quantum leap and that if we are going to value...if taxes

are to be according to valuation we should maybe create another category. I believe that is logical in your framework of agriculture assessments, right?

Mr. Hunt: What we would do and if the data were available we would do what we call the paired sale. In this case a paired lease analysis. If on the same property you had two (2) separate leases or adjacent properties you have two (2) separate leases, one (1) was for biotech and one (1) was just for diversified we would do a step by step analysis of the leases themselves and look at not just what the gross rents are but also what the obligations of the lessees are. And then we would have to compare that over the again same period of time to see if there is a differential that is being paid. And then you could capitalize that differential into a value.

Councilmember Yukimura: And that is something that is a normal process of...a normal assessment procedure or process, valuation?

Mr. Hunt: Lease analysis more on the income approach, which is something that the assessment office really does not do. We do cost and market but it is a recognized approach so as a former private commercial independent fee appraiser it is a technique I am very familiar with for comparison but it is just something that by ordinance we have not used.

Councilmember Yukimura: In terms of the Administration's position, I am wondering which one is preferable if you are able to say?

Mr. Hunt: I believe the Administration is supportive of keeping the biotech type use under agriculture as a tax class.

Councilmember Yukimura: Okay. Whatever the use the land is agriculture land and we want to keep it in agriculture land. Thank you very much.

Committee Chair Chock: Question?

Councilmember Bynum: I just want to follow-up. So the Mayor's position on this is we should continue...the other taxpayers of the County should continue to give five hundred thousand dollars (\$500,000) or seven hundred thousand dollars (\$700,000) of tax subsidies to this agricultural use, research use? That is the Mayor's position?

Mr. Hunt: That is not exactly what I testified to. The Mayor's position is he believes that this use should be classified under agriculture. Tax class.

Councilmember Bynum: Well it is going to be under agriculture research. So he is not...he wants to continue these subsidies that other taxpayers make? Is that correct?

Mr. Hunt: I will not answer for the Mayor on that.

Councilmember Bynum: Well that is the outcome, right? You do not make any changes, that is the outcome. Okay, thank you.

Committee Chair Chock: I am going to have Councilmember Hooser go next and Councilmember Yukimura.

Councilmember Hooser: Just to follow-up briefly on what Councilmember said. So the Administration's position is the status quo? They prefer the status quo?

Mr. Hunt: The Administration's position is that this biotech research is an agriculture use.

Councilmember Hooser: And in terms of the tax situation they prefer the status quo not Councilmember Yukimura's proposal. Not our proposal but just the status quo? Is that the position?

Mr. Hunt: I would not go that far.

Councilmember Hooser: So I have to guess how far you have to go? So at some point you will be telling us on behalf of the Administration? I am confused. Could you explain what the position is?

Mr. Hunt: The position is that the Administration believes that the biotech research is an agriculture use on agriculture lands and also when important agriculture lands enter the picture will be a continual allowable use on agriculture lands.

Councilmember Hooser: Correct me if I am wrong. None of these measures change the agriculture lands...that they are agriculture lands right? They are still agriculture lands. Correct?

Mr. Hunt: Agriculture zoned lands?

Councilmember Hooser: Yes.

Mr. Hunt: Correct.

Councilmember Hooser: They are still agriculture lands. And in terms of the development potential it is my understanding that the maximum, even if that was the worst case situation the maximum would be five (5) units on any single parcel? So mass development of a one thousand (1,000) acre parcel means five (5) units, would be the worst case situation. I am not saying it is a good thing but is that correct?

Mr. Hunt: I do not want to speak on behalf of the Planning Department now.

Councilmember Hooser: It is my understanding that current law allows no more than five (5) units on any un-subdivided parcel. If you could put that back up there, with the lease amounts. And so we have competing, if you would proposals to try to accomplish a similar end, I think. And my question is according to this...does it have the dollar amount per acre on it? Another slide with the dollar amount per acre? Oh, that is. Five hundred seventy-five dollars (\$575) an acre. So between five hundred seventy-five and seven hundred seventy-five dollars (\$575 - \$775) an acre per acre that is annual I believe to lease. What would be typical pasture land lease?

Mr. Hunt: I have not seen a recent contract. I could not tell you.

Councilmember Hooser: How about an old contract? I mean is it twenty dollars (\$20), thirty dollars (\$30), ten dollars (\$10)?

Mr. Hunt: I could not tell you. One hundred fifty dollars (\$150), two hundred dollars (\$200)...I have no ballpark.

Councilmember Hooser: How about diversified agriculture? We do not have any? I can try to track that down.

Mr. Hunt: I do believe water is probably, which is in this two hundred thirty (230) is probably a separate charge though.

Councilmember Hooser: But it seems like the amount being paid is a multiple of many factors. What is paid for in diversified agriculture and ranching and so from a policy perspective, my point is that if we want to support diversified agriculture and ranching that they are not equal. That no landowner can get this kind of income is going to want to lease to ranchers or diversified agriculture. So I think that is a public policy question that we are trying to address here. It is what I am trying to address. I do not want to speak to the group. Could you get us at some point what the average lease is or I am sure your agriculture person must know because that is what you base it on, the value, right? You base the taxation for those two (2) categories on the value?

Mr. Hunt: No. It is the carrying capacity of the land and again it is not by product and it is aggregated into two (2) separate categories so obviously some produce produces more than others. So it is not just a matter of converting lease rent. It is actually looking at what a farmer could afford to pay for land or diversified and make a profit and cover his expenses.

Councilmember Hooser: So that is how it is determined? Okay. So you would use...if you had the agronomics in a similar kind of fashion, so you would have ranching, eco...as Councilmember Yukimura...you would use a similar formula to determine the taxes?

Mr. Hunt: If we had data that would be something we could approach but I think as many have already spoke to, you are saying there is no income produced so how would I start with the sales?

Councilmember Hooser: So how would you implement that model?

Mr. Hunt: That would be the challenge.

Councilmember Hooser: So the model that is on the table now is pretty basic, I think. It is a new category and whatever rate the County would want to choose. So it might be easier to implement instead.

Mr. Hunt: I think once the parcels have been identified and you are moving them it probably would. There potentially would be some issues with parcels that have multiple uses some of which do qualify and some which do not in creating what we call these multi-pit parcels which in the past have been done by zoning. So now we would have to do it based on reported uses. I am not saying it is on doable but that would be the wrinkle.

Councilmember Hooser: Which would be the most challenging or the easier one to implement? Which model? I mean we have to make that decision. I assume we are making that decision so I need some...

Mr. Hunt: I guess...can I ask some questions because in answering that question I would want to know a little bit more. Are we determining that...is this a go forward bill? In other words of the parcels that are already in this use that are already dedicated that may have nine (9) years, that may have nineteen (19) years, it may have one (1) year left, is it a phase out and we are not allowing new dedicantes to come in but we are honoring the existing dedications or are we saying no. This cancels all of the dedications that were already recorded and reported going forward. That would be part of my decision in implementation obviously.

Councilmember Hooser: Okay, that is good. And would this Council have the ability to choose between those options? I mean in terms of the legal authority or whatever?

Mr. Hunt: I would defer to our legal on that whether you have the authority to cancel a dedication.

Councilmember Hooser: Okay. On the other model would you have to look at the individual leases?

Mr. Hunt: The other model we would still have to look at individual leases to determine if it falls in the category of bio research or biotech.

Councilmember Hooser: And to calculate a value perhaps.

Mr. Hunt: And the to come up with a method by which since we do not have sales to necessarily back into what a carrying capacity the land would be I think again an alternative approach would be to look at the lease differentials but again looking at it with all cost factors involved if there are other...like again water may be charged separately to a lessee that is not included in the rent where as this one may be all inclusive and I do not know how much water is used. Those kinds of things would have to be analyzed obviously.

Councilmember Hooser: One (1) more question if I could and then I will...and so it seems like to implement either one of these you would need information.

Mr. Hunt: Yes.

Councilmember Hooser: And so that information would include the lease which shows that land area and would also have to include what is actually being grown on the land area to see if they did it. That is pretty much...

Mr. Hunt: Would need...yes, I would need lease information on those areas and for comparison purposes leases on the other types of uses.

Councilmember Hooser: And I would imagine the lease would have to have a nature of the activity to know whether it falls under this category or not, right? Whether they are growing tomatoes or whether they are growing something that qualifies.

Mr. Hunt: I would need to know...right. And again corn, there is also other people who grow corn here that is sweet corn that is organic so corn does not necessarily show me that it has to be in the new category.

Councilmember Hooser: Exactly. This is pretty specific of what it calls for. So the lease would have to have that or whatever information that is requested would have to have that information as well. Thank you.

Committee Chair Chock: I would like to let everyone have a chance to speak too so I am going to go to Councilmember Kagawa next and then back onto this side.

Councilmember Kagawa: Steve, during the break you showed me a breakdown of the difference between I think the forty something...

Mr. Hunt: The forty-four thousand (44,000) and the twenty-four thousand (24,000)...

Councilmember Kagawa: The forty-four thousand (44,000) and the twenty-four thousand (24,000) that is dedicated. So the twenty-four thousand (24,000) dedicated agriculture that is all seed corn or is it mixed?

Mr. Hunt: To the best of my knowledge it is seed corn or other uses that would be in research but again it is a rough and dirty number that I had to pull from information that just says maybe corn or diversified large acreage but maybe a lessee name. Some have, some do not, so as I go through on a parcel by parcel basis I am trying to use my best guess to collect that information. But that is not how we collect the information necessarily so again this is requesting information that in the past was collected as detailed as would be needed for this type of information.

Councilmember Kagawa: Do we have a map that shows where these twenty-four thousand (24,000) dedicated parcels are?

Mr. Hunt: No. Only the...and I do not even have a map but I have the parcels, the TMKs which could be mapped. We could assign that but it would not show within the parcel that area that is specific to this use.

Councilmember Kagawa: I guess I would appreciate at some point if you guys, if it does not take too much work by your staff to do a map so we can get an idea of where these twenty-four thousand (24,000)...

Mr. Hunt: Well it would be a map with the forty-four thousand (44,000) that is the problem. We would not be able to identify the twenty-four thousand (24,000)...

Councilmember Kagawa: You cannot separate it?

Mr. Hunt: We have possibly some hard map...I mean hard plot plans that are very...it is not scaled necessarily that we could transport into a GIS map so it would be very challenging and time consuming.

Councilmember Kagawa: So even the TMKs, they are not broken up on maps? Not yet.

Mr. Hunt: Not in any kind of electronic form, no.

Councilmember Kagawa: That would be nice. So just to reiterate, the Mayor, his stance...I must ask the question again. It was asked several times to you but I just want to ask one (1) time and I will take your answer. The Mayor at this time does not support separating...

Mr. Hunt: A new class?

Councilmember Kagawa: Yes.

Mr. Hunt: No.

Councilmember Kagawa: And he basically wants to keep it the way it is for now?

Mr. Hunt: He believes it is an agriculture.

Councilmember Kagawa: Is there another...who is the agriculture person in the Real Property Tax Division?

Mr. Hunt: Damien Ventura.

Councilmember Kagawa: And does Damien have a breakdown like per say of Kekaha, of all of the different types of...because I did my own research and I am very surprised and actually elated that I see so much different use in Kekaha. It just blows me away that I did not know were growing so many acres of things like sweet potato and ginger. So does Damien have knowledge of these different uses, and where?

Mr. Hunt: He probably has personal knowledge but again not in map form. Most of the maps that we collect from the applicants, the ones that are dedicating are in hard copy form.

Councilmember Kagawa: I guess it is kind of where this County is headed to. To kind of get a handle on all of the different types because if we keep hearing that everything is the seed corn and it really is not if you look down this list I have ten (10) different items of pretty large parcels that have different things. I guess down the line if we can expand Damien's...I guess it would help economic



development or what have you with what exactly is out there and this is just Kekaha. I know there is a lot elsewhere as well. Thank you.

Committee Chair Chock: Councilmember Bynum.

Councilmember Bynum: I want to follow-up on stuff he said earlier. You said a couple of time the Mayor's position is that this is agricultural use of the land. I totally agree with that and this rhetoric out there that we are redefining agricultural use and saying this is not agricultural use...this is just for tax purposes. We are saying that this not agricultural use that is the same as diversified and we are saying for dedication purposes. So I just want to really be very clear about this. Again this is as rhetoric. Oh, this is an attack on agriculture. No, it is not. Of course this is agriculture and part of the large overall, global but what it is here on Kaua'i is it does not fit our agriculture dedication, that is the point. So it is not that this is not agriculture, it is just we want to define it differently for tax benefit purposes, correct?

Mr. Hunt: Yes, but can I respond to that?

Councilmember Bynum: Yes please.

Mr. Hunt: To that point there a other agriculture uses which we do not recognize as dedicatable uses that are under agriculture zoned lands too. So if you were to define this in the existing agriculture dedication program to say these uses are not dedicatable it still remains in agriculture it just say you cannot dedicate them. This creates a new class that actually could have a new...

Councilmember Bynum: Called research agriculture. It is just a different category of agriculture.

Mr. Hunt: Correct but now it is no longer potentially falling under agricultural rates and other agriculture treatments. So we are just saying if it is a valuation issue and you do not want it to be dedicated, they pay market tax but it still stays within the agriculture category. Much like the timeshare people came up and says we do not want a new timeshare class, we are okay with hotel and resort, you can value us the correct way...I kind of view that in a very similar situation.

Councilmember Bynum: I understand. You said about implementing.

Mr. Hunt: Yes.

Councilmember Bynum: I want to follow-up on that. First of all, the law currently says you shall consider all of these documents, right? But we have

not been collecting. So you agree that the law says you should have these documents, right? How do you consider a document if you do not have it? So this burden could and should put on the landowner. They are asking for a tax benefit. So you tell us graphically illustrate what lands you are talking about. Steve, does it not concern you as the Finance Director that a year later we do not know who has what lands dedicated for what purposes even though we are giving tax benefits? Does that not concern you?

Mr. Hunt: I would love to have more data, I would love to have more resources to collect more data. There are challenges.

Councilmember Bynum: Well I will not go into the data issue so much but it is like last week when you did yeoman's work to help us get these estimates, which are good ones but you had to ask me where there was the list of agriculture dedications. Where did I get that? I got it from the landowners. I requested it during Bill No. 2491. Here we are almost a year later and as the County of Kaua'i we do not independently know who is doing what where. That is a very serious concern so in terms of implementation once we know that then this gives the option to say stay in this rate, which let us say we set it the same as the current agriculture rate. It could be less, it could be more but we set it the same. You move into this category, you put the burden on the landowner to show you where they are asking for this status and then it is simple to implement is it not? It is just math then after you get the basic data down. Now if you are going to change the valuation you are going to need every lease because it is going to be different. Maybe Grove Farm negotiated better rates than Alexander & Baldwin (A&B) or the Robinson family. I know they negotiated much better rates than the Agribusiness Development Corporation ADC who are leasing this land for fifty dollars (\$50) an acre. Let us look and see what pasture use is. I think it is between ten and fifty dollars (\$10 - \$50) so that is why we do not have as much pasture happening because those people have lost their leases to these higher payments. Is it not...the question is here is it not that implementing once we determine who is doing what on these portions then it is simple to implement, is it not?

Mr. Hunt: The only difference between implementing under the agriculture classification and creating a new classification is being able to identify the area and create a multi-pit. We would add another pit. Under the agriculture we would not have to add the multi-pit nor amend those as they change.

Councilmember Bynum: If I am the lessee who has to pay these taxes because everyone I have ever seen the lessor tells the lessee you are responsible for the taxes. If I am the lessee right now I have a choice of...status quo I do not have to do anything but if we value the dedicated they are going to have to give us all of this data on an ongoing basis in order to calculate the valuation, correct?

Mr. Hunt: Say that one more time.

Councilmember Bynum: If we are going to create a new valuation for this research use rather than a new tax category, right? Those are the options that are being laid out here. Then we are going to need to have the lease data with the lease payments on an ongoing basis from everyone because they are going to be different, right? And maybe different to...I do not know what other land...I know what the ADC negotiated...fifty dollars (\$50). Fifty dollars (\$50) for somebody that...they are the ones that are supposed to give us business sense and manage our state assets on behalf of the people and we are only getting fifty dollars (\$50). The people getting fifty dollars (\$50) six hundred seventy-five (675) for...

Mr. Hunt: And that is where I agree. I do not think we should be doing this on a lease by lease basis. We should use that as the analysis to set sort of the average much like we did with the diversified and the pasture because again you could have more productivity and different leases between different crops. We are just sort of making it standardized otherwise we are going to need a lot more staff.

Councilmember Bynum: So we put this in a different category which is what I am purposing, putting it in a different category. Landowners do not have to give us these documents anymore.

Mr. Hunt: Because it becomes market.

Councilmember Bynum: Because it goes to whatever the rate we set. It may be market but...that will be market.

Mr. Hunt: If they are non-dedicatable they are market. Yes, so under this proposal it would be market value.

Councilmember Bynum: But we are saying that current rate in agriculture is...I forgot. Seven...

Mr. Hunt: The tax rate?

Councilmember Bynum: The agriculture rate...yes.

Mr. Hunt: Six dollars and seventy-five cents (\$6.75) per one thousand (1,000) is the rate.

Councilmember Bynum: So we are going to put this in a separate category and we could set that rate at five dollars (\$5.00). We could continue to give a tax break compared to other markets if we chose to. I am just saying that is it not much simpler once you identify the land then you do not have to worry about all of these documents, right? So if I am the landowner I am going to say I would rather pay the two thousand six hundred thousand dollars (\$2,600) more a year than jump

through all of these hoops and me giving my proprietary information to the County of Kaua'i?

Committee Chair Chock: Are you done with your question?  
Councilmember Bynum: Yes.

Committee Chair Chock: Thank you.

Councilmember Yukimura: What seems to be missing here is that a new tax category does not just affect what rate gets set. It greatly affects the assessed value, right?

Mr. Hunt: Yes.

Councilmember Yukimura: And so this new tax category taken out of agriculture dedication will go to a market value which is not even based on agriculture leases. It will go to a market value of a development level of that agriculture land and if they subdivide it is not just five (5) units. It is multiple agriculture parcels each allowed five (5) units, up to five (5) units actually based...I think the five (5) acre ones are only three (3) units. It is a tremendous increase in assessed value. That is what worries me about the present proposal. What I am proposing is keeping it within the agriculture dedication process but creating a new value and I agree with you Steve. That it would...I do not think we should do it parcel by parcel. I think you should find some kind of benchmark just like you have with diversified and pasture and use that. Going back to the question about status quo, in terms of what this new agriculture value classification would do is it would not keep the status quo. There would actually be an increase in valuation but it would reflect in general terms the new lease values that are coming out of the biotech leases. Is that correct?

Mr. Hunt: I think it would reflect, if you are going that route, it would reflect the differential. So if you have a diversified lease and say it is one hundred fifty dollars (\$150) an acre and then you have another one that is at four hundred dollars (\$400) an acre and you have a differential between the two (2) you could apply that potential differential to the diversified rate to come up with the new valuation rate. That is kind of the track that would go on.

Councilmember Yukimura: I do not know...assuming that we defer this matter you could help me figure out or maybe you know already with in an agriculture category there would be an increase in taxes but it still would be agriculture based rather than fair market value or development value based? Is that correct?

Mr. Hunt: That would be the likely outcome and just thinking a little bit more about the complexity about the additional class and I want

to answer this because if you have say a one thousand (1,000) acre parcel. Two hundred (200) acres are being used for bio research, two hundred acres (200) are not dedicated, and the six hundred (600) acre balance is in a multiple of pasture, diversified, and other uses that are dedicated. If it just a matter of providing as you mentioned the leases, we do not need the leases anymore. We still do need the leases because I need to be able to tell that two hundred (200) market versus the two hundred (200)...because this would market at agriculture that stays in agriculture verses the two hundred (200) acres that is now going to be pulled out and moved into a new category. If I cannot separate that four hundred (400) acres of non-dedicated into market in agriculture and market in agronomics, I still need that information. Do you follow me?

Councilmember Yukimura: Yes.

Mr. Hunt: So you have three (3) tenants with two hundred (200) acres each that are two (2) pasture and one (1) diversified. Those are all dedicated, they are all ongoing. You have a biotech for two hundred (200) acres and you have two hundred (200) acres that you just did not dedicate. Maybe you were going to do a subdivision or do something with it so you are paying market tax on that. That two hundred (200) acres that are in the biotech, you are saying that they do not need to report these leases anymore. How do I determine of that four hundred (400) acres that is not dedicated how much to pull out and put into the new category?

Councilmember Bynum: Can I answer?

Committee Chair Chock: Is it okay if he answers?

Councilmember Yukimura: Yes.

Councilmember Bynum: You have the lessee...it is their land. They have to tell us who is doing what where. You put the burden on the...like it is in the law right now. The law right now says you shall consider and it has this list of documents you have not been collecting all of them consistently, correct?

Mr. Hunt: Some of them do not even get filed because Schedule F corporations file Schedule C. We would never collect a Schedule F. There are just some documents that just do not get filed. So you are correct we do not collect them all.

Councilmember Bynum: The current language says the Director shall consider these documents. If you do not even ask for them then you cannot consider them.

Committee Chair Chock: Okay. Thank you for clarifying.

Councilmember Yukimura: Following up on that I think we want to figure out if we are going this route of creating a third agriculture valuation what the procedure would be and then what information you would need and we would amend the law in terms of what needs to be looked at or what needs to be submitted because right now there is a disconnect between all of the things that should be considered and what is actually the process of assessing value. I think we first have to get the basic structure of what we want to do. Do we want to take these biotech lands and move them out of an agriculture tax category and put them into the highest and best use category which is the regular way real property is assessed or do we want to keep it within agriculture, create a third category of valuation, figure out how you will do that valuation and I vote for a benchmark of some sort and then what kind of information you would need in order to do that. And I think the question has also been raised of what happens if within a year's time the land is used sometimes for biotech but then used for other purposes and I am not sure what the answer to that question but I think it could be addressed either by some ordinance or some rules. Thank you.

Committee Chair Chock: Any more questions for Steve? You have a question?

Councilmember Bynum: I lost it. I will wait.

Committee Chair Chock: I want to move to some public testimony if we can now that we kind of got a sense of the amendments that are before us.

Councilmember Yukimura: Chair.

Committee Chair Chock: Yes.

Councilmember Yukimura: I have not really introduced it and should not but there is another amendment pending but I could just circulate it for informational purposes.

Committee Chair Chock: Why not do that.

Councilmember Yukimura: Okay, so to both the Council and the public.

Committee Chair Chock: Yes, that would be good if we could send it out.

Councilmember Yukimura: And I am moving in my mind toward a deferral so that we can really digest all that is being proposed and said here, get input from the public on these fairly complex proposals and then come back later.

Committee Chair Chock: And that is kind of where I wanted to move as well and I wanted to just share because I am kind of still stuck on unintended consequences and I do not feel that I have heard enough from the public, certainly not from our farmers or the seed companies on this potential Bill and I am hoping that we do get a bit more interaction and communication moving forward because I have heard things about infrastructure that may be of concern that we need to take into consideration and I want to make sure that we are moving in a direction that we are taking it all into consideration. I did...if I could just share also, I could not find very much help but I did find a census on a Hawai'i Data Book from 2013. It says we have five hundred ninety-one (591) farms on the island and they vary in sizes; acres one through nine (1 – 9) about three hundred forty-eight (348), which is a significant amount of that total. And out of those about two hundred sixty-six (266) are irrigated lands and so again the question that I have for the agriculture industry is who takes care of that infrastructure because I was told that our seed companies have a big role in that and how would this affect that distribution? The other question I have is about mixed uses as I have mentioned before because I think that we have some parcels that are utilized in different ways and I have talked a little to Steve about how we might be able to mitigate that but I think I need to hear more from really what is happening on the ground there and so I just really wanted to share that, where I am. I am supportive of getting more information. I think Councilmember Hooser has more as well. Do you have a...I just wanted to throw that out there for community actually. So if they are willing to come and speak. You have something that you want to...

Councilmember Bynum: I want to respond to some of the things you said and we do that now. We have pasture in a portion and we have diversified agriculture in a portion. We already do that and the landowners are required under the law to give a change of use petition. I showed you in the old Grove Farm where they changed half (.5) an acre from...and they did it every year. It is a requirement of the law now to tell us what these various uses are in one (1) parcel and so I think it is a bit of a paper tiger to say how are we going to do that? We are already doing it and we put out to the landowner you tell us where you are using what parcels of land. We are already asking that. We just have not been collecting that. Change of use petition. It is a requirement of the law to delineate and tell us what type of use is happening on which portion. Even though they have to tell us that we cannot, a year later answer the question as the County of Kaua'i. That is pretty frightening to me.

Committee Chair Chock: Councilmember Hooser.

Councilmember Hooser: It is basically discussion responding to your comment. Would you like me to continue or...

Committee Chair Chock: Sure then I want to move towards taking public testimony.

Councilmember Hooser: I can wait.

Committee Chair Chock: Let us move to public testimony. I appreciate that. We can come back to discussion. Would anyone like to testify on this item? Yes. Thank you, Mr. Shigemoto.

TOM SHIGEMOTO: For the record Tom Shigemoto. I will reserve comment on whether I have testimony or not but I have a basic question...a question on the amendment introduced by Gary and it seems to be a conflict in what is being proposed here because the highlighted section say first of all in Section 1 parcels, you know this real tax class involved include parcels which are used for the purpose of research and when I testified earlier or previously I asked the question because Kaua'i Coffee has pockets of corn that are grown and we lease these areas to the seed corn companies but the primary...and the when you...I am sorry. When you jump to the second paragraph you are including the definition of agriculture for what Kaua'i Coffee is doing because it is not primarily used for research but we do have these pockets that are leased for corn or seed corn production. So what is it? Is it Kaua'i Coffee agriculture use or is it not? And are we being taxed on the entire three thousand (3,000) that we grow coffee on or not? That is basically my question.

Committee Chair Chock: Councilmember Bynum.

Councilmember Bynum: The answer is the coffee land continue to be agriculture dedicated, continue to have these...the portion of the land...so we already made those distinguishes. You have about two thousand (2,000) acres in lease to the seed companies according to the data that we have, right, on three (3) parcels.

Mr. Shigemoto: I am not exactly sure how much. You said two thousand (2,000) acres to corn companies?

Councilmember Bynum: Can I answer your question in short? The law already distinguishes between different uses on one (1) parcel and it will continue to do that under any of these proposals.

Mr. Shigemoto: Right.

Councilmember Bynum: Anyone who is doing anything other than federal research on genetically modified organisms will continue to have their agriculture dedications just like they do. I would like to meet with you now that I have this data that just yesterday about your properties and let us sit down and talk about it. That is what I wanted to do a month ago but I have not been provided the data or the information. Can we do that?



Mr. Shigemoto: Where you waiting for me to give you that information?

Councilmember Bynum: No. No. I have been waiting for the Administration to give us that information for over a year and they have not yet but they were able to, with our tax data and the information we had, get these estimates that are very close, right? And you can compare them. There are three (3) parcels that are labeled Alexander & Baldwin here, out of the sixty-five (65) there are three (3) so my information that I am given just a day ago is that you have three (3) parcels and about two thousand (2,000) acres under dedication to seed companies. And you have a whole lot more of land than that under dedication, right? And I can show you this data offline and you can confirm with your own records.

Mr. Shigemoto: I do not think it is that much but I have to look at the data and what parcels are involved.

Committee Chair Chock: Can we move that down?

Councilmember Bynum: Yes.

Committee Chair Chock: Any...Councilmember Hooser.

Councilmember Hooser: Just a brief question. I want to thank you for engaging in the dialogue. In order for us to do our work we need to hear it and this is good. This is good stuff to hear what your concerns are. And I encourage others in the industry to do the same thing. The timeshare industry...it was obvious that we were having a discussion about raising timeshare taxes or having a different category. Those industry representatives came and said okay we understand you need to do something. This is what we would prefer how you handle it rather than the way you were going to handle it and so without that dialogue it is hard for us to make the best decision we want to make. So I want to thank you for being willing to be engaged that dialogue.

Mr. Shigemoto: You are welcome.

Councilmember Hooser: The intent and the writing would not affect you coffee fields at all as Councilmember Bynum said. The coffee fields. If you were subleasing, just like now, just like in the existing law, if you had pasture here or something it would be different but it would not affect you coffee fields.

Mr. Shigemoto: Thank you.

Councilmember Hooser: Thank you.

Committee Chair Chock: No further questions? Thank you. Anyone else who would like to testify on this item? Seeing none...Oh. We do?

Councilmember Yukimura: Mr. Dyer.

Committee Chair Chock: Oh, yes. Mike. Thank you.

MIKE DYER: Mike Dyer. I am no longer involved in agriculture but was for twenty plus (20+) years. I am not sure where the direction of this is going but I know even in the old days when we started back in the 80's it was hard and now we are talking about I think making it harder and potentially more expensive. I wrote in testimony opposed to creating a separate classification for research. I think Councilmember Yukimura's amendment is well intended but if I am reading it correctly it says that you would end up in the third category under agriculture if you were growing genetically modified crops, right? If I were in business today we use to grow Sunrise which was a hybrid. I do not know if that would qualify but if I were in business today because of the Ringspot potential problem I would be growing Rainbow which is genetically modified and I would end up in the third group. After we went out of farming we ended up going into pasture. If you keep making it harder for the higher financially difficult more expensive crops...you go from pasture which is really cheap and relatively easy to do to diversified, which becomes much, much more expensive because of the second category. Now you want to go to a third one you will basically get the reverse of what you pay for. The harder you make it everything will tend to back down into pasture and I think I heard Councilmember Bynum say that it is so sad we have pasture going into other crops but the other crops are the ones that produce the jobs, and the income, and things like that and products. I have nothing against cows and goats but it is expensive to produce the other things. Just my observation is there is a problem because we tax at market value as the only other alternative. Why are you guys putting a tax of six hundred seventy-five dollars (\$675) on vacant land? How do you justify that other than you are trying to force it into development as somebody was saying. Either set these lower rates under dedication...I did not want to get into dedication. I had to. I had to spend money to get into dedication. I had to fence our old croplands because as soon as I stopped producing after twenty plus (20+) years the tax offices said, "Oh boy, now we got you" and the taxes went from nothing to sixteen thousand dollars (\$16,000) a year. There was nothing in between. There was nothing to just say, okay sit there and hang on to that land and keep it for your kids or just keep it for the next idea that comes along. I just sold most of my old farm to a young thirty (30) year old guy who wants to do permaculture. I had to keep it in pasture in between to bridge that gap between when we had to quit and now he comes in and picks up our dedication and converts it to diversified agriculture instead of pasture.

Ms. Marugame: Three (3) minutes.

Mr. Dyer: There is a lot of things in the agriculture area that I think really need to be looked at. If you really want to drive agriculture zoned land to development, keep a nice high tax rate on it, increase the value and you will get it turned into development, I guarantee it.

Committee Chair Chock: Thank you. We have a couple questions.  
Councilmember Bynum, Councilmember Kagawa.

Councilmember Bynum: Mike, thank you always for your testimony. I am not going to do it with you here but you are illustrating a point that I want to talk about later but my question is your taxes, you said went from like one thousand dollars (\$1,000) to one fifteen thousand dollars (\$15,000). Then you fenced it and it went back down and now you are going to move to diversified agriculture?

Mr. Dyer: I am not. I am an old guy. I am selling it to a young guy.

Councilmember Bynum: But the land is going go to diversified agriculture.

Mr. Dyer: Yes he is going in...we have to be extremely careful because the tax office if you make one (1) misstep they are going to come in and knock you out of dedication and roll you back. It is a deadly fearsome thing to be in dedication in my opinion.

Councilmember Bynum: I am sorry...what you just said is very meaningful to me. It is like hey, you have to be careful, you have to do it right, you have to report the right data, and you, your taxes went up and then came back down and you had to invest money and do all of that, right?

Mr. Dyer: Right.

Councilmember Bynum: And knew that when you ended the dedication you had a responsibility to inform us, right?

Mr. Dyer: Yes.

Councilmember Bynum: And you knew that your taxes would go up and they did and then you knew what you needed to do to get it back in dedication, correct?

Mr. Dyer: Yes.

Councilmember Bynum: And you followed all of those rules.

Mr. Dyer: First of all let us remember in the old days you had a situation where you could be in diversified agriculture and probably in pasture too and did not have to be dedicated if you were just doing it. You got a low rate. You got the five thousand dollar (\$5,000) an acre rate. Then you changed it and made it so that you had to dedicate. Then you changed it to make it so that you, I think if you are over ten (10) acres you can dedicate but if you are under ten (10) acres you cannot and so you are stuck. There is nowhere to go. I am sorry to interrupt but there are a lot of things that have been happening under dedication and in agriculture. We started in the 80's, there were a lot of transitions that took place during that time. Dedication was the only way to get out from under just having vacant land that was formerly in agriculture and just letting it lie fallow because it went to market value and that was a big killer.

Councilmember Bynum: Right and you asked a great question. Why are we setting the agriculture rate at six hundred ninety dollars (\$690)? Actually I found out that a lot of the land is not even impacted by that because it is in this program, right and that is a great question and the things that you just talked about, the changes our staff here, Christiane Nakea outlined all of those. They were to address abuses that were happening. People getting gentlemen estates agriculture dedicated and not doing anything, right? But in the long run we follow these rules and so I do not disagree with you that maybe we need to look at the bigger picture about this market rate and should it be six hundred ninety dollars (\$690) but that is not what this law is about. Those are things that are in place that are there. This law, we have a lot of loss revenue from agriculture and it turned out that this dedication has a lot to do with it.

Committee Chair Chock: Question?

Councilmember Bynum: I am done.

Committee Chair Chock: Okay. Mr. Kagawa.

Councilmember Kagawa: Mike, thank you for your testimony. How many acres is you...

Mr. Dyer: I had twenty-five (25).

Councilmember Kagawa: Twenty-five (25) acres and what is permaculture.

Mr. Dyer: Well I am learning it on the fly. I looked it up on Wikipedia. It is where you do a lot of different kinds of tree crops and under story crops and you try to make everything synergistic. This guy calls himself the forest of food so they are planting different tree crops and things like that. So it

may not fit these categories you are talking about and I do not know. It is just a new thing. Ours was just straight diversified agriculture; papayas, pineapple, bell peppers.

Councilmember Kagawa: So it is some type of tree crop?

Mr. Dyer: It is a mixture of tree crops. Right now he is going in fast. He has to get some income going. He is going to grow some root crops and things like that. He is tilling for that but he is going try to make an integrated area of agriculture that...like me, look it up on the computer. There are about forty (40) pages on that.

Committee Chair Chock: Councilmember Yukimura.

Councilmember Yukimura: Mike, thank you. I really appreciate the point you made because in terms of if you are growing rainbow papaya or anything that is production, it is not research and I think the intention here was more toward research. I have examined the wording of my proposal and I see that we have included production so that a small farmer growing something that is genetically modified would be affected by this.

Mr. Dyer: That is the way I read it.

Councilmember Yukimura: I will take a look at that and we might maybe do it just by acreage, I do not know yet but thank you for your input.

Committee Chair Chock: Councilmember Hooser.

Councilmember Hooser: Good afternoon. Since you are the real farmer at the table here, the one with the history, did you see the lease rents that are being charged or paid for the research that were on the board earlier?

Mr. Dyer: I did not really understand them. I was not here for that part of the presentation.

Councilmember Hooser: Between five hundred and seven hundred dollars (\$500 - \$700) an acre and so in your opinion can farmers growing diversified agriculture afford those kinds of leases and make money?

Mr. Dyer: Well they would not want to. Some of the stuff that is going on now, people have a big piece of land and a very intensively run hydroponics or lettuce operation, there is a lot of that going on in our area on the north shore. We have to be really water frugal now a days because a lot of our areas do not have water available and stuff like that. So that is a very high price but again, will the landowner stay in it, keep his land in agriculture if he does not get a high rent? It sort of goes to that idea that do we want to drive our vacant space,

open spaces to other things? But those rents are high. I use to tell when people would ask me what kind of rent would you pay if you were leasing instead of you owning it and bought a long time ago. I say I probably would pay one hundred dollars (\$100) an acre for the kind of stuff we are doing; papayas and things like that but that is old information and I am interested in what the lease rates are going to but we closed down in 2002 or 2003. Something like that.

Councilmember Hooser: Thank you.

Committee Chair Chock: Councilmember Bynum.

Councilmember Bynum: So Mike, the question is you said on your twenty-five (25) acres losing the dedication and going to market cost fifteen thousand dollars (\$15,000) roughly.

Mr. Dyer: Yes.

Councilmember Bynum: I do not know if you saw this but here in the acrogenics example five hundred twenty (529) acres removed the tax difference is seventeen thousand dollars (\$17,000). Wait a minute. Twenty-five (25) acres that Mike Dyer has loses the dedication, fifteen thousand dollars (\$15,000) your taxes go up. Five hundred twenty-nine (529) acres over here in Puhi and why is that? Do you know?

Mr. Dyer: Yes. I know partly what it is. It is basically how you do or rather how the Tax Office does assessments. These huge parcels will have a lot lower per acre value. Mine was a twenty-five (25) acre piece. The Tax Office compared it to a nearby piece that was the same size that had a nice view of the Kīlauea River Valley and said yours is worth two million dollars (\$2,000,000) too. And I said no it is not. And it was not as it turned out.

Councilmember Bynum: I do not want to go through this analysis with you but you understand it and it is the answer to Councilmember Yukimura's question earlier, right? Is this going to drive these large parcels into market? Not when there is only a seventeen thousand dollar (\$17,000) difference. You might have a lot of pressure to sell that or develop it because that was significant for only twenty-five (25) acres and not a big corporation or a big landowner and so not all agriculture land is created equal in terms of its value under this program. That is why eight million five hundred thousand dollars (\$8,500,000) total loan in subsidies but only five hundred (500) of that to these large parcels, over twenty-two thousand (22,000) acres, if you take out that one (1) urban parcel.

Mr. Dyer: No, I understand what you are talking about. We just had a gigantic sale, as most of you know in the Kīlauea area. A couple of big pieces of agriculture land sold for fifty million dollars (\$50,000,000) and things

like that. So for the big pieces changes the whole picture substantially. Now the tax office is going to go, wow, big pieces of agriculture are worth this now. Those guys that are in pasture around me are going, I have to hang on to that pasture. I cannot make any mistakes or I am going to go to a market value of fifty million dollars (\$50,000,000).

Councilmember Bynum: Thank you Mike.

Committee Chair Chock: Thank you for your testimony. I appreciate it. Anyone else who would like to testify on this item?

The meeting was called back to order, and proceeded as follows:

Committee Chair Chock: We have one (1) amendment on the floor. I know that one (1) is circulating. I know there has been many questions still that need to be answered so if we want to defer this now is the time. Councilmember Bynum.

Councilmember Bynum: I have no problem with the deferral to get this right however the amendment that Councilmember Hooser has introduced addresses a lot of the earlier concerns and is not inconsistent with Councilmember Yukimura's should it pass and then modify that so my suggestion, just a suggestion, I am not a Committee member was that we vote on that amendment, defer the Bill as Draft 2 or whatever that is and give Councilmember Yukimura time and also that will buy time for us to drill down on some of this research further.

Committee Chair Chock: More discussion? Anyone else? On the amendment...whether or not we should move on the amendment. Councilmember Yukimura.

Councilmember Yukimura: I would prefer to just defer so everybody gets to look at both amendments and do research. I guess at this point I would vote against the amendment.

Committee Chair Chock: Anyone else?

Councilmember Rapozo: What are we on?

Committee Chair Chock: We are on the amendment that was introduced by Councilmember Hooser. I think there is an intention to defer the main motion until we can get more answers and more input. Anyone else?

Councilmember Rapozo: Not on the amendment.

Committee Chair Chock: Okay.

Councilmember Hooser: It seems clear that there are five (5) people on the Committee and the votes are not there to pass the amendment as we sit here today in my opinion and so I think we could wait another two (2) weeks and then let Councilmember Yukimura work further on her amendment and...

Committee Chair Chock: Four (4) weeks.

Councilmember Hooser: Four (4) weeks.

Committee Chair Chock: November 12, 2014.

Councilmember Hooser: This is important public policy decisions and so they need to be thoughtful, they need to be thought out. We are here today not just to raise money but to address the appropriate use of our agriculture lands and we subsidize agriculture because we value food sustainability and keeping our agriculture lands in agriculture and because we recognize that farmers have a hard time making ends meet and so we provide subsidies to farmers for that reason. I am happy and proud to do so. In this case we are looking at major corporations who number 1 do not need the subsidy and number 2 are not contributing to food sustainability locally and number 3 they have a very intense impact on the land, the air, and the water and so there are plenty of good, positive public policy reasons to take the action we are doing and whether that path is Councilmember Yukimura's path or the path that Councilmember Bynum and I had charted I am open to either one. I will support a deferral.

Committee Chair Chock: I think there are some significant differences in terms of the amount of money involved and also in terms of process, the administration of it. Again, I think it was said earlier like with the timeshare leaders who came to us and said, look we understand that you are looking at this. This is what we would like to see happen and it created a really good foundation for us to build upon and I really would like to encourage that we have those types of discussions to meet towards a solution here.

Councilmember Hooser: Can I ask just briefly? If I could, that is an excellent suggestion and that is how good laws are passed with the stakeholders involved and contribute rather than just sit back and let things happen and then deal with the impacts. I would also like to encourage the Administration. Knowing that what I believe the majority of the Council is heading down this path anyway to come up with their suggestions on a proposal that would be achievable in terms of implementation. Rather than we just do something and they have to deal with it. If they could help us out here and provide some suggestions on how they would prefer if we did go down this path. Which way to do it and how best to do it? I think that is how good laws are passed I believe. Thank you.

Committee Chair Chock: Go ahead please.



Councilmember Yukimura: I do agree that there is significant difference between the two (2) amendments. Even though it is just for tax purposes you are actually taking the lands under Councilmember Bynum's proposal out of agriculture. You are creating another category called agronomics but it is no longer agriculture. Whereas my proposal would be to keep it under agriculture, however the similarities between the two (2) amendments is that a recognition that the biotech leases and uses have really increased the value of leased agriculture land and that perhaps should be reflected in how we tax agriculture land. They would still remain dedicated and they would still remain under the agriculture valuation process but there would be a reflection of the increased value that they bring and they do then put diversified lands at risk if they are diversified lands can be leased at a higher rate it would encourage landlords to lease it to biotech uses rather than diversified uses. I think my proposal is a more gradual approach but it does and will result in higher taxes to the biotech industry but I believe it will be a fairer increase rather than to tax biotech industry at highest and best use which reflects a developmental use that I do not feel is appropriate to reflect because the lands are still in agriculture, they are still for growing crops and there is the issue in my mind of the contribution of the seed companies to maintaining the water systems that are really important to the sustainability of our agriculture lands and these water systems are irreplaceable if they are allowed to go into disuse as they have been in Kilauea. The agriculture potential of the land is severely reduced and so we have to recognize that it is potentially in the category for unintended consequences and I think we really have to look at that and I think it is really appropriate to have some input from the seed companies about this and others who are involved so that we can, here around the table, can make better decisions.

Committee Chair Chock:

Councilmember Rapozo.

Councilmember Rapozo: Thank you, Mr. Chair and thank you Mr. Dyer for coming up because I think it is important to hear from farmers and you are not a GMO farmer, you are not a research farmer, you are a farmer. A true traditional farmer and I appreciate your input. This whole issue boils down to really one (1) thing is what do we consider agriculture use? If you do not believe that the seed companies on Kaua'i are an agriculture use than you support the Bill. If you believe that they are agriculture, true agriculture than you do not. I believe that the operations on Kaua'i is agriculture and for those reasons I am not going to support the Bill in any fashion because every campaign, every election is the same thing. We talk about diversified agriculture. We talk about helping the farmers. We talk about creating jobs. We talk about all of these things that the seed companies provide and yet we are here to try to figure out a way to get more money from them. As Mr. Dyer put it, you said it best why do you keep on making it harder and harder and harder for farmers? Your quote, I actually wrote it down and I know you were being facetious or maybe not but "now we got you" was your perception of what was going on and I tend to agree with you. We are looking at these opportunities to go out and get more revenue and that is not how we are

supposed to treat farmers when we are saying we have to take of our farmers. Again it comes down to an opinion. I respect the other Councilmember opinions that they do not believe it is agriculture use. I do and you have to look at it big picture. What we are doing on Kaua'i are helping farmers all over the world. What we are doing on Kaua'i is creating opportunities for farms throughout the country and throughout the world to produce food. Some will say that I am nuts or some will say I am paid off by the seed companies. Look at my campaign spending report; zero (0). I believe that what they are doing on Kaua'i number 1 is an agriculture use, it is farming and they provide a valuable service for farming and agriculture in general. Not just here on Kaua'i. We should be and I am not saying that we should subsidize anything that they do and maybe we need to take a look at the valuation. I am not disagreeing with that but I know when the timeshare people come it did not take long for this Council to say take that thing out of...let us not create a new class because a lot of those timeshare people were E-mailing us hundreds and hundreds and hundreds if not thousands telling us please do not create a special class for us and this Council relatively quickly took that right out of the amendment and that needs to be done in this case as well because it is in my opinion an agriculture use but for me I guess what is troubling is we are targeting and industry. We are targeting an industry and I am uncomfortable with that and I think we have to be careful. I do not care if it is the timeshare industry or the seed corn industry or whatever industry it is I think there has to be a rational basis and I think when you look at the use of the land some would argue that they changed the use. They are not doing traditional farming. I do not know what traditional farming is. You plant a seed, you water it, fertilize it, pesticide it, and it grows. I am not so sure the change in use but the change in use did not happen overnight. The change in use occurred I do not know how many years ago, a long time ago and only today, only now we are looking at it as a new change of use and I believe that is very dangerous. That is a dangerous road to go down and I am hoping that we can get more dialogue from farmers like Mr. Dyer, from farmers that are raising different crops here on Kaua'i whether it is taro, whatever is out there because I want to hear from the real farmers. Seven (7) of us have no farming experience. JoAnn? Really, what did you grow?

Councilmember Yukimura: We had a farm up in Namahana. I use to harvest boxes of cucumbers.

Councilmember Rapozo: Sorry, I misspoke. Six (6) of us have no farming experience but I think that is where we have to go. We cannot pretend to be farmers and cannot pretend to be experts in this field and that is why I think it is important that people like Mr. Dyer come up and all of you that we have those discussions because I think what we do here will have ramifications that will go for a long, long time and may affect the farming industry on Kaua'i and I am concerned about that. So Mr. Chair I apologize. I do want to make a comment that I think as we sit around this table and we had the little speech from Jay this morning about limited time and that...I know Councilmembers utilize the question and answer

period for their own discussion and it does not count against their time but we have sat here for many hours and I just think we have to get a better handle on the discussion and reserving that discussion for the end and utilizing the time because I know Mr. Bynum was not here when Jay came up but he basically gave us a little scolding and a little reminder about that and I just...it is frustrating to sit here and listen to discussion in the question/answer and watching that clock go on and on and on knowing that we still have a whole bunch more Bills to go through so I just ask your consideration as we move forward. Thank you.

Committee Chair Chock:

Councilmember Kagawa.

Councilmember Kagawa: Thank you, Chair. On the positive note there is one (1) thing that I agree with Councilmember Chock and Councilmember Yukimura that is that they are worried about the unintended consequences and in recent weeks I have gotten very scared of where the State is headed with those commercials that you see regarding the Maui initiative that is...some of the unintended consequences that we need to be aware of are the same as the commercial is saying. We do not know now what it would be if it is five hundred thousand dollars (\$500,000) more tax of course we are not going to see the big lose in jobs or what but who knows what that tax rate will be and who knows what amount of acreage we are going impose that tax on. There is loss of jobs that could occur. Less money for local people to spend in their local mom and pop stores et cetera that circulates around Kaua'i. There is a possibility of having negative effects on other farms because the seed corn company does have a lot of money. They do take care of a lot of the infrastructure that goes a long with a lot of these farms. Even in Kekaha. Look at these different things that they grow; mango, sweet potato, ginger, like I said beans, wine, taro. Again the unintended consequences that come with these types of targeted legislation is my concern and I have grown up, like I said two (2) houses away from Ola Kele Sugar Plantation in Hanapēpē Heights and you cannot believe the amount of dust that we went through being the neighbor of...being two (2) houses away from the sugar but it was a way of life. I have lots of family, my closest friends, parents all worked for the plantation and if we get away from big agriculture I am worried about how that Westside community, my hometown what it would look like if we do not have large agriculture because one (1) of my good friend who use to substitute for me at Kapa'a High School, she worked for an organic farm in Kilauea and she told me that she wishes she could do that full time but the employer always kept her under that nineteen (19) hours or what have you because he could not pay the benefits for her so she could not do it full time and so she had to substitute teach. So I mean small farms, yes, we want to grow more food. We want to produce more food that stays here to feed our families but it is not that easy. When they get a heavy rain, crops all wash out, total loss. Just simple things like that but this agriculture that we have with the seed corn companies is stable. It provides solid jobs with medical, with everything and I am just worried that if we be too quick to pass this type of legislation, we go after them because we feel that they have a lot of money to pay, I

am just worried about the unintended consequences and that is where I really agree with Councilmember Chock and Councilmember Yukimura and I will be supporting the deferral. Thank you.

Committee Chair Chock: Councilmember Bynum. Closing statement.

Councilmember Bynum: Thank you for this discussion today and your patience on this issue. This is not...I am tired of this...this is targeting this industry. This industry brought these land use changes to our island. Not only did they bring these land use changes, they did not bother to follow the laws and tell us about the changes they made and the changes of lessees. They did not bother to get conservation plans and protect our health and welfare and their change of use research, we now know, they told us that they obfuscated that there was no product now they finally admit that because it is just a fact. The law did not fit so we tried to fix it but these companies also came here and started doing this research use that we have overwhelming evidence leads to very frequent spraying of pesticides at very high quantities. Why are the landowners requiring a premium for that research use that is different from the parent seed research that they are doing because, I believe they know it is an intensive use of the land. Under the law they were required to tell us about these things and we can easily delineate different uses on one (1) parcel we just have not bothered to collect the information. It should be very disturbing to every citizen that a year later after I have made requests and even legal requests that are required to be followed by law that your information about where you are giving subsidies is not readily available to us. So we have really serious problems about information being unavailable to us for lengthy periods of time or purposely being withheld. Mr. Hunt asked if we change this dedication are we going to honor the dedications that currently exist for ten (10) years or are we going to change it next year? I have showed overwhelming evidence that they accepted a whole bunch of new petitions that were inappropriate and they have not dealt with the petitions that are in breach. It is in this context that a logical question gets asked. Do the rate payers, the residents of Kaua'i and other taxpayers like hotels and timeshares, do we want to continue to give a tax benefit for these land use changes that have impacted our health and welfare and our economy? That is a logical question. For me the answer is easy and apparent. Now the last thing is Mr. Dyer gives really needed testimony. I have been seeking information on other parcels that have been agricultural dedicated and that information has not been provided to me either. The question was asked today what the lease payments for pasture are. I have requested those documents that are public documents. They were due here on October 2, 2014 and I have not seen them. It would take the Administration ten (10) minutes to find those documents and to scan them and send them over here. Why are those...I am trying to answer these questions and I cannot even get access to public records as your Councilmember to answer those questions. But Mr. Dyer helped us answer it. Twenty-five (25) acres because it is in a high value area, because we tax at highest and best use. The tax implications for this one (1) individual on twenty-five (25)

acres were fifteen thousand dollars (\$15,000) yet on five hundred twenty-nine (529) acres the difference is only seventeen thousand dollars (\$17,000). Why is that? It is because of the way we do these values. I just shared that for twenty-two thousand (22,000) acres the tax difference will be about five hundred thousand dollars (\$500,000). Believe me these seed companies...they are paying for that one (1) parcel about that much just for one (1) of the sixty-five (65) in payments each year. They are not going to abandon their work here because they have to pay seventeen thousand dollars (\$17,000) more in taxes. Mr. Dyer did not abandon his dreams and his parcel when he had to pay fifteen thousand dollars (\$15,000) on only fifteen (15) acres. He said in his testimony...I am going to get the words Mike. It is like boy would you not apply for dedication. Watch out because the Tax Department is going to make you jump through all of these hoops and get it right. Well I am glad that you had that experience because this is money, we have to get it right. These vase acreage of land, they did not even bother to tell us so they did not have to go through that? Why should Mr. Dyer and Bette Midler, who is the other example I am trying to do. Who paid all of their taxes, jumped through all of the hoops, had to deal with the tax department to get it done and these massive changes of land use none of that has happened because they did not even follow the law and apply. Now in that context I have go no problem saying that you know what biggest corporations in the world that have brought these land use changes to my community please pay a decent tax for the use of the land.

Committee Chair Chock: That is five (5) minutes.

Councilmember Bynum: Thank you.

Committee Chair Chock: Thank you. Can I get a motion to defer?

Upon motion duly made by Councilmember Kagawa, seconded by Councilmember Yukimura, and unanimously carried, Bill No. 2546, Draft 1 was deferred.

The Committee proceeded on its agenda item, as shown in the following Committee Report which is incorporated herein by reference:

**CR-FED 2014-36:** on Bill No. 2558, Draft 1 A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES (*Retroactive Real Property Tax Measures and Extensions*) (**Approved.**)

The Committee proceeded on its agenda item, as follows:

Bill No. 2559, Draft 1     A BILL FOR AN ORDINANCE AMENDING  
CHAPTER 5A, KAUAI COUNTY CODE 1987, AS  
AMENDED, RELATING TO REAL PROPERTY  
TAXES (*Tax On Use*) **(This item was Deferred.)**

Councilmember Hooser moved for approval of Bill No. 2559, Draft 1,  
seconded by Councilmember Yukimura.

Committee Chair Chock:        I know we did get a communication. It just  
came this afternoon. I do not know if you folks had a chance to take a look at it but  
I will suspend the rules for Mr. Hunt to come back.

There being no objections, the rules were suspended.

Committee Chair Chock:        Councilmember Kagawa.

Councilmember Kagawa:        Thank you, Chair. Steve.

Mr. Hunt:                        Yes.

Councilmember Kagawa:        What is your opinion on this Bill? Is it  
implementable or is it problematic?

Mr. Hunt:                        It is implementable but not for the 2015  
Fiscal Year and it is very labor intensive in order to create the distribution, the  
allocation of values. The only procedure that I would know how to do would be to  
create an artificial CPR for tax purposes only to assign portions of the overall value  
and set valuation classes for each of those CPRs to make sure that they are paying  
based on the correct tax rate.

Councilmember Kagawa:        So on a single lot with two (2) houses on it, it  
would be problematic?

Mr. Hunt:                        A single lot, two (2) houses we would still  
have to create the distribution of value based on percentage.

Councilmember Kagawa:        Based on percentage of size of the house?

Mr. Hunt:                        That is the way I read the Bill, it is based on  
square footage so if there is one (1) garage that is shared or even not shared a  
portion of that total building value would be then ascribed based on the square  
footage of the uses. So if we determine so much in residential use, so much in  
vacation rental use we would do that proration of all of the...part of the pool if they  
had a pool, part of the tennis court if they had a tennis court, part of their garage or  
laundry area all of that would have to be split between the two (2) parcels because it

is based on square footage and then we would have to apply the valuation class for each of those units of the whole.

Councilmember Kagawa: So you are saying that the labor that is required if we pass this Bill is going to have to the next...

Mr. Hunt: It would go...because you would now be starting with one (1) parcel and you would take that parcel and create now three (3). You would have the parent, which is where the original valuation is that we are using to value the property and then you would have the two (2) *keiki* of that parent that would be the CPR units and each of those would then have a portion of the value and different tax rates associated to get that use on a percent basis. So now you are managing three (3) properties parcels instead of one (1) as the assessor.

Councilmember Kagawa: So you would value whatever...you would take a percentage based on the value of whatever is part of the home, whatever is a part of the rental you would get a percentage and you divide the total value of the lot by that percentage?

Mr. Hunt: Yes and it would not be the lot. It would be the improvements because we do not have a distinction. It is single value now so we would have...say if you have a five hundred thousand dollar (\$500,000) property in total and twenty percent (20%) was used as vacation rental and eighty percent (80%) as a primary residence. So you would now take that five hundred thousand dollars (\$500,000) and say four hundred thousand dollars (\$400,000) is homestead and the balance, the one hundred thousand dollars (\$100,000) would now be vacation rental. So we would now have to create those CPRs to host the value and then be able to apply the rates on this.

Councilmember Kagawa: Did we ever have taxes done in that manner in any category in the history?

Mr. Hunt: We have created artificial CPRs before but we have not done it for this specific use.

Councilmember Kagawa: What about any other counties in Hawai'i?

Mr. Hunt: No that I am aware of.

Councilmember Kagawa: Not that you are know of. Okay. Thank you,  
Chair.

Committee Chair Chock: Thank you. Councilmember Hooser.

Councilmember Hooser: How many counties do it by use? All of us?

Mr. Hunt: No.

Councilmember Hooser: We are the only ones?

Mr. Hunt: Only one (1) in Hawai'i.

Councilmember Hooser: So we are the only county that does it by use?

Mr. Hunt: Yes.

Councilmember Hooser: And so when that process was started this was what we got now.

Mr. Hunt: Yes.

Councilmember Hooser: Looking at you staffing projections the cost of that you estimated is just under two hundred thousand dollars (\$200,000), one hundred ninety-five thousand dollars (\$195,000).

Mr. Hunt: For the first year.

Councilmember Hooser: For the first year and after that it drops down to one hundred sixty something thousand.

Mr. Hunt: Yes, plus fringe a little bit lower than that but you would take out the temporary Tax Clerk and the fringe and medical from that.

Councilmember Hooser: The two (2) positions...it sound like most of the work you are describing is work is computer work basically, right? Working with the program, setting up the different values, and inputting that data into it?

Mr. Hunt: That would be the Appraiser's role, yes.

Councilmember Hooser: And then the other would be an inspection, a compliance?

Mr. Hunt: The compliance that would verify that the use is are in fact proportional, that they have not changed, that you started with one (1) bedroom Transient Vacation Rental (TVR) and now it is two (2) and now you have to update the square footage.

Councilmember Hooser: So with the compliance we do not check every single property in the County do we? No one has been to my house to



measure my footprint, I do not believe, at least I have not given them permission to do so.

Mr. Hunt: They probably did when it was constructed and then if there was any permits to add on to it, it was probably done for the inspection of that as well.

Councilmember Hooser: So these properties both have already undergone the same type of thing. I just do not understand the need for the full-time compliance person. I understand the need for compliance and to do some spot checking if you would but I do not understand the need for a full-time...

Mr. Hunt: Well currently the way we are doing it is it is not prorated. It is either whatever rate is the highest so there is no need to verify square footages so we know the value of the property, here is your tax rate. Now we are saying we need to know the area that is specifically used for this and all we have is the footprint or the square footage of the whole. So now we are going to monitor annually how much of it is being used for each use and the uses may change and the square footages may change.

Councilmember Hooser: I guess the point or the principle behind it is that we do not need to know it annually. We could choose to know annually. We could choose to check every couple of years or more often, monthly we could choose to check and I do not believe we check agriculture parcels for example annually to verify that this number of acres are growing bananas or whatever, right? We take the landowner, on most cases we take the lessor or the applicant's word for it. Is that not correct? That is how most of these things are right now?

Mr. Hunt: The majority of them are taken on faith but with the exception of the dedications you have sort of the ability to go back.

Councilmember Hooser: Right and so I recognize that. We have the ability and we have an obligation to do some checking to make sure people are doing it but I do not see why we would need to all of a sudden make this more stringent and more expensive than all of the other things that we are doing right now.

Mr. Hunt: Well frankly looking at the face of potential 3.17 for not doing this I want to be proactive and make sure we have adequate staff to enforce and if we already have deficiencies in staffing to do what the law may tell us for other areas I do not want to be in that position again.

Councilmember Hooser: And I can appreciate that. I do. And that is why written into the Bill was a measure for an affidavit, a signed affidavit by the landowner or property owner to declare their use and so that the intent of that was to provide some higher level of accountability to them and less need for inspections

and so I am thinking that could be...as long as the Tax Office gave the property owner the right parameters and said you have to sign an affidavit and swear that this is the use and this is the...that would solve some of that. But either way I will accept your estimate of numbers but I believe that they could be done...there are other ways it could be approached without...it would be less expensive and just to restate what you meant before that you believe that this would be a more equitable in terms of the...it measures the actual use.

Mr. Hunt: It is definitely more accurate means but again if we are going to be looking at accuracy then I think that compliance to continue that accuracy would be something that would be warranted.

Councilmember Hooser: Final question quickly?

Committee Chair Chock: If you could hold that next question because we have to take a break.

Councilmember Hooser: Sure.

Committee Chair Chock: So I will recess now for another ten (10) minutes. Caption break. Thank you.

There being no objections, the Committee recessed at 5:39 p.m.

The meeting was called back to order at 5:46 p.m., and proceeded as follows:

Committee Chair Chock: We are back from our recess. Do we have any further questions for the Director of Finance on Bill No. 2559, Draft 1? Councilmember Yukimura.

Councilmember Yukimura: Steve, in fact, the other item on the agenda; Bill No. 2560 which is the Commercialized Home Use bill, is actually an alternative way to deal with the problem that Bill No. 2559 is trying to address, right?

Mr. Hunt: It is an alternative way, correct.

Councilmember Yukimura: And the fiscal impact of Bill No. 2560 is likely to be less than Bill No. 2559?

Mr. Hunt: It is difficult to say without knowing the percentage of use of each of the potential classes and/or what the tax rate ultimately is set for commercialized to home use. Those are variables that I cannot judge what the impact will be without looking at all of those.

Councilmember Yukimura: But it is easier administratively; Bill No. 2560, easier to apply...

Mr. Hunt: Absolutely. No staff, it could probably be done almost in a day to aggregate all those with home uses, out home use exemptions outside of the Homestead Class and put them into a new override category and send out assessment notices that way. It is very implementable for the fifteenth (15<sup>th</sup>) year.

Councilmember Yukimura: It is not as accurate?

Mr. Hunt: Correct and you will have more relief from people that are coming from the higher paying classes, again, but I do not know what percentage use. You have some in vacation rental but may be vacation renting a room, you have some that may have a whole separate house that they vacation rent as compared to those in the residential that have renting a room or a second 'Ohana unit that they rent long term, so the differential in rates, the ones that are coming from the vacation rental would see more benefit but again they are all homeowners, they reside on property.

Councilmember Yukimura: Both these Bills would apply to the same number of properties?

Mr. Hunt: I am not sure because I believe the class on use could extend to properties...I do not think it requires a homeowner's exemption. I do not recall saying that.

Councilmember Yukimura: Bill No. 2560?

Mr. Hunt: No, Bill No. 2560 are all those who have home use exemptions.

Councilmember Yukimura: But...

Mr. Hunt: Bill No. 2559, I am not sure if it is clear on that.

Councilmember Yukimura: And it is potentially that Bill No. 2559 would be applying to a larger class than Bill No. 2560.

Mr. Hunt: Potentially you could have split uses of property and have to (inaudible) the square footage for those properties as well.

Councilmember Yukimura: We should verify that. The last question would be...Bill No. 2559 would be more accurate but in my mind not accurate enough because I do not think square footage is necessarily the best way to divide

up the valuation. It seems to me actual value would be the way to divide up, which you explained at a previous meeting would be even more complex and administratively difficult. But even the common area assessed divisions are complicated under Bill No. 2559. Is there a dividing line we could make in terms of properties that are part of the homestead house versus properties that are separate but on the same parcel because those would tend to be the more expensive. What I am thinking and I am thinking out loud is of a sub-category to this classified commercialized home use that would somehow give a little bit...it is an effort to separate the higher value from the lesser value because we are putting both these different properties, mixed use and treating them together and it seems like it might be useful to distinguish.

Mr. Hunt: Again I have some challenges because square foot is just square footage, it does not talk about what square footage you have. When you have may be a division of industrial and you have a residence, the warehouse space is certainly of a different construction material quality but it is square footage. If you have a ten thousand (10,000) square foot warehouse and a five thousand (5,000) square foot home, on percentage, the home actually may cost more to build and may have more value than the warehouse if it is just tin or...but even there might be some issues. I believe the intent was primarily residential uses but it is not specific so the division of square footage could be problematic to interrupt and implement.

Councilmember Yukimura: We could also pass Bill No. 2560 Commercialized Home Use as somewhat of an interim or transitional law that would...it is a less precise method but it is a way to give some relief and address the issue while we look at a more detailed or comprehensive or complicated process for addressing these issues. Even if we wanted to refine Bill No. 2559 and work on it later, that would be an alternative; to go right now with the administratively simple one.

Mr. Hunt: Well Bill No. 2560 is certainly something that is implementable for this coming year. Bill No. 2559 although more precise, I really do not see how it could be implemented before. Our data extraction which is in mid-November.

Councilmember Yukimura: I think too from my standpoint, the administrative cost and complexities are a factor. I mean if we can get some approximate relief with an administratively easier thing, that makes the administrative easier, but I am willing to work on a more complicated approach later on. Thank you.

Committee Chair Chock: Any further questions? I will call for public testimony. No one is here.

The meeting was called back to order, and proceeded as follows:

Committee Chair Chock: I am not ready to move on this Bill. I am willing to defer or receive it right now. I think that it could warrant some future discussion and continue to look at it. Comparatively to what we are looking at in Bill No. 2560, I think that we need to really consider what it is going to take. There is a long list of things that are listed here in terms of the implementation of it, as I said, I am willing to look at it further but not to move it forward out of Committee at this time. That is my stance on it and anyone else, in terms of discussion?

Councilmember Hooser: I differ in my opinion and I certainly respect yours. Of all the bills that we are doing, a lot of talk about systemic change and doing things that mean something for the long term and this measure deals with what I believe is the biggest problem, the biggest increases, the most outraged homeowners, the people who had their lands taxed at a rate just because they happen to be renting out a bedroom or have some smaller use and then resulted in large increases. The measure is simple in concept and allows the tax office to develop rules to flesh out if they wanted to have more detail and how they are reporting; they could develop the forms and rules. It is perhaps more restrictive than our Ag law that we have in place now. It has been said repeatedly that it is fair and equitable. They are fairer perhaps but they still just give one (1) tax rate for the entire property. So you have a hundred (100) farm and they have a one (1) bedroom, they rent out the entire farm is taxed at the higher rate. They have a little fruit-stand on a thousand (1,000) feet, that entire place have the higher rate. Now if we blend that with this other proposal, you are still planning a higher rate and so it is not equitable at all. The cost which I believe is too high but even if we accept those costs, I would propose that we take those money's out of other parts of the County and not just add to the budget. There has been a lot of talk in this Council about how the fat and extra positions here and there, let us shift some positions around if we need to. Why should the taxpayers have to be paying this extra two hundred thousand dollars (\$200,000) a year to subsidize a tax system that is not fair to them? It is a simple straightforward measure, it does not preclude us if we wanted to also have some version of this other bill that is on the table. You can even have that for the next year and have this kick in after that. I am ready to vote on it. I am going to vote in support and let the cards fall where they may. I believe this is important and this is equity should be one of our primary objectives; fairness and equity in our tax structure and this Bill provides that. Is it more complicated? Yes. Does it require more work from the tax office? Yes. Is the computer program ready to except it? No. But I do not believe that we should let that computer program or the fact that it is a little more complicated keep us from doing the right thing and passing Ordinances much more fair and equitable then what we have now. Thank you.

Councilmember Yukimura: I am listening carefully to Councilmember Hooser's arguments. I have a question in terms of some actual cases that would help me decide how to vote. Is there really a particular case where there is a fruit-stand and a farm and how exactly is that...I mean a fruit-stand is a farm activity, is that affecting the use? Do we need Steve to answer that question?

Councilmember Hooser: I can give you a brief answer. I have several small farmers tell me that this use provision caused their entire property to be taxed at a higher rate whether it was from the fruit-stand or one (1) bedroom rental. I could not tell you at this moment. It is my understanding that a fruit-stand is a commercial use and if they put a store on their property...the Director can answer...

There being no objections, the rules were suspended.

Mr. Hunt: In the case of that specific situation, if the fruit-stand requires a commercial use permit which I believe most do, then it would be considered commercial. The property would not be valued as commercial but the tax rate that is applied to it would be commercial. As you know the difference between six dollars seventy-five cents (\$6.75) and eight dollars ten cents (\$8.10) is the differential in rates.

Councilmember Yukimura: How many properties are involved in that applies to exemptions?

Mr. Hunt: I believe there are seventeen hundred and eighty-eight (1,788) properties that have home use exemptions that are outside of the Homestead class.

Councilmember Yukimura: Alright. I guess what this is telling me is that I would be in favor of deferring this for more work but not ready to vote for it at this time. Thank you.

Councilmember Rapozo: All of the discussion's today clearly illustrates the need to expedite the start of the discussions for the property tax reform. I mean just the overlap between bills as we are comparing two (2) different bills and we are trying to get everything done in a quick matter. I think we need to slow down and be careful; cost is one thing, but again, we also got to consider the impacts of the action we take. I do not oppose the deferral. I think the discussion is healthy but I do not know how we can move the reform process quickly a head. I think a lot of the questions we are having today, we should be having this in a task force setting with members from different...representatives from different segments of the community; the farmers, commercial, industrial, and have everybody sharing ideas because again when you start tweaking one area, there is an effect somewhere else. There is a cause and effect. It is very difficult when we are limited to discuss one (1) bill just because the way the law is structured as opposed to discussing a much broader area of concern. I will support the deferral. I am not ready to vote for the bill today as far as approving it. I think we are trying to do the reform in

segments and I do not know if that is the right way to do it. I will definitely support a deferral to engage more discussion. My comments relate to the next item as well. I am not prepared to vote. If I have to vote today I would vote against it. Thank you.

Councilmember Kagawa: Similar for me, I like the idea of where this Bill is headed to properly divide various uses by a more logical and fair way but the point that you brought up about having a quonset hut that is large and you have a house, if you split it by percentage, it would be unfair because the quonset hut is much cheaper to build than the house. In that case, it would not be fair but I think that is the direction that I think we would like to head to finally find a solution to this mix use problem. I believe highest and most best use is not the fairest way, it is in fact very unfair but we are headed in the right direction but I am not in favor of every aspect of splitting it by square footage because I believe, like Steve said, it could be unfair.

Committee Chair Chock: Thank you. I am going to turn it over to Councilmember Hooser. I think what I heard is exactly what I was feeling, so I wanted to add to that. We talked about sort term and then maybe some mid-term maybe for next year but we are already starting to look further down the road on some of the other tax reform needs. We have also talked about some task force, a committee being formed, the possible need of that, I guess what I am saying is, it feels to me that we need to a little bit more organize around the different options as we look further down the road before we start to move some of these initiatives forward. Again, that is sort of what I am feeling on where I am right now so that we can take our time and engage a lot of the stakeholders as necessary.

Councilmember Hooser: If the members of this Committee who are requesting a deferral are prepared to offer amendments to make the Bill better so we can move it forward as it has been stated for earlier bills, I could support that. But if this is going to get deferred into oblivion and form into a task force that takes two (2) years to come to conclusions that do not get implemented, I do not want this to get mixed up. This is an important one. It is straightforward and it deals with the most important issue and I am open to making it better but I do not want to see it get buried in the...I mean face it, how many bills do we have on the table now that have gone on and on and not reach conclusions with task force. That could very well happen to this also. If we think we can vote on it in a month from now, I think a month is plenty time to look at the specific issue. This is not about a bunch of exemptions, this is about how you value property. It is not about income, it is about how you value property and I think we should be able to...it has already been on the table for a month and another month. If people are sincerely interested in improving the language in the Bill then I would like to hear that and I would support the deferral and we can move on. Thank you.

Committee Chair Chock: Councilmember Yukimura.

Councilmember Yukimura: I am committed to looking very closely at it but I am not committed to having a solution by the next meeting. When I look at what I have to do from now to the next meeting, I do not know if I could do it but I am willing to work on it. That is all I am saying and I am being really honest.

Committee Chair Chock: Thank you. That is what we need, honesty. And the other thing for me, I did receive this just this afternoon and I would like more time to look at the specific steps that are being proposed here and hear more from our stakeholders on this initiative. I have heard a lot of people respond to other bills so again I do not know if I can promise you some solid amendments, I will continue to look into it if it is deferred.

Upon motion duly made by Councilmember Kagawa, seconded by Councilmember Yukimura, and carried by a vote of 4:1 (*Councilmember Hooser voting no*), Bill No. 2559, Draft was deferred.

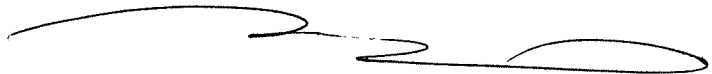
The Committee proceeded on its agenda item, as shown in the following Committee Report which is incorporated herein by reference:

**CR-FED 2014-37:** on Bill No. 2560      A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, ARTICLE 6, SECTION 5A-6.4, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES (*Commercialized Home Use Tax Classification*) (**Approved.**)

Councilmember Yukimura moved to adjourn the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreational Development / Other Economic Development Areas) Committee Meeting, seconded by Councilmember Kagawa, and unanimously carried.


There being no further business, the meeting was adjourned at 6:25 p.m.

Respectfully submitted,



Lori L. Marugame  
Council Services Assistant I

APPROVED at the Committee Meeting held on November 12, 2014:

  
MASON K. CHOCK, SR.  
CHAIR, FED COMMITTEE



(October 15, 2014)  
FLOOR AMENDMENT  
Bill No. 2557, Relating to Real Property Taxes (*Low Income Tax Credit*)

Introduced by: JOANN A. YUKIMURA

Amend Bill No. 2557, SECTION 2, by amending Section 5A-11.4, subsection (e), to read as follows:

“(e) Low Income Tax Credit.

(1) When used in this Section, the following words and phrases shall have the following meaning unless it shall be apparent from the context that a different meaning was intended:

“Homeowner” means a person who filed and was granted a home exemption claim under Section 5A-11.4.

“Homeowner property” means the property with regard to which a homeowner filed and was granted a home exemption claim under Section 5A-11.4.

“Household income” means the total gross income of all titleholders for the preceding tax year.

“Income” means the sum of Federal gross income as defined by the Internal Revenue Code of 1986, as amended, or the sum of Hawai‘i gross income, as defined in Chapter 235 of Hawai‘i Revised Statutes, as amended, whichever is greater.

“Titleholder” means the property owner and any other entity listed on the deed or any other legal instrument establishing the entity’s ownership right in the property.

(2) Upon proper application, a homeowner whose household income does not exceed fifty percent (50%) of the Kaua‘i median household income as set forth in the Kaua‘i County Housing Agency Affordable Rental Housing Guideline for the calendar year preceding the year in which the application is filed, shall be entitled to a credit in the amount that the real property tax assessed on the homeowner property for the current year exceeds three percent of the household income. In no event shall the real property tax due after the application of the credit be less than the minimum tax pursuant to Sec. 5A-6.3(g).

The credit shall be applied in equal pro rata amounts against each payment due for the next tax year following the year in which an application for credit is submitted and granted. No credit shall be applied if taxes on the

property are delinquent.

(3) No credit shall be granted pursuant to this section unless an application for credit and proof of income is filed with the Department of Finance. Applications shall be submitted in a form prescribed by the Director of Finance and include a U.S. Internal Revenue Service Form 4506-T. For the 2015 tax year only, applications shall be filed by January 15, 2015. For all subsequent tax years, all applications should be annually submitted by September 30 of the current year to be effective for the next fiscal year beginning on July 1.

(4) Credits granted pursuant to this section shall not be transferable to other persons or properties.

(5) The director may adopt rules and prescribe forms to implement this section."

(Material to be deleted is bracketed. New material is underscored.)

(October 15, 2014)

FLOOR AMENDMENT #1

Bill No. 2546, Draft 1, A Bill for an Ordinance Amending Chapter 5A, Kaua'i County Code 1987, as Amended, Relating to Real Property Taxes (*Agronomics / Agricultural Use Definition / Reporting*)

Introduced by: GARY L. HOOSER

Amend Bill No. 2546, Draft 1, by amending SECTION 2 in its entirety to read as follows:

"SECTION 2. Chapter 5A, Section 5A-6.4, of the Kaua'i County Code 1987, as amended, is hereby amended to read as follows:

"(a) For purposes of tax rates, real property shall be classified into one (1) of the following general classes according to the property's actual use unless otherwise provided in this Chapter:

- (1) Residential.
- (2) Vacation rental.
- (3) Commercial.
- (4) Industrial.
- (5) Agricultural.
- (6) Conservation.
- (7) Hotel and resort.
- (8) Homestead.
- (9) Residential Investor.
- (10) Agronomics.

Vacant property shall be classified as zoned until actual use is established[, except for vacant property previously classified as apartment shall be classified as hotel and resort until actual use is established]. If a property has multiple actual uses, it shall be classified as the use with the highest tax rate.

(b) When property is divided into condominium units, each unit shall be (1) classified upon consideration of its actual use into one of the general classes in the same manner as other property, and (2) deemed a parcel and assessed separately.

(c) Parcels which are used for no other purpose than as the owner's principal residence shall be classified as "homestead" provided that the owner has applied for and has been granted a home exemption according to Section 5A-11.4. The homestead class shall also include parcels used as the owner's principal residence which are being

assessed according to their agricultural use as provided in Section 5A-9.1; provided that the owner has been granted a home exemption and that no portion of the parcel be used for a purpose other than the owner's principal residence and agriculture. The agricultural use shall be limited to the cultivation of crops, pasturing of animals, and cultivation of aquaculture products, and uses which directly support the agricultural activity such as windbreaks, access roads, irrigation ditches and sheltering of farm machinery. Uses which are primarily commercial or industrial in nature, such as importing, selling, refining or distributing agricultural products, shall not qualify for the homestead class. The residentially-used portions of agricultural land shall be assessed according to their value in residential use. The homestead class shall also include parcels used as day care centers by licensed day care providers; provided that the owner has been granted a home exemption, no portion of the parcel is used for any other commercial activity, and that owner has provided a current copy of the day care provider license to the Director on or before September 30th prior to the applicable tax year. The homestead class shall also include parcels that have applied for and have been deemed a long term affordable rental pursuant to Section 5A-11A.1. "Homestead" shall mean properties which are used exclusively as the owner's principal residence, except as otherwise provided in this Section. Uses which shall not qualify as "homestead" include, but are not limited to, the following: (1) real property which is used for commercial, income producing purposes, except for the agricultural, licensed day care, and long term affordable rental uses provided above; and (2) real property which is used for residential rental purposes, whether for long term or short term, except as provided above and otherwise in this Chapter.

(d) [The owner may appeal the property's tax rate classification as in the case of an appeal from an assessment.] For the purposes of this Article, the tax rate classification for Residential Investor shall be applied to properties that do not qualify for the home exemption, are improved with a dwelling unit(s), and not vacant land, and have an assessed value of two million dollars (\$2,000,000.00) or more.

(e) Parcels which are used for no other purpose than science, research, and development of crops shall be classified as "Agronomics."

[(e)] (f) The owner may appeal the property's tax rate classification as in the case of an appeal from an assessment."

(Material to be deleted is bracketed. New material to be added is underscored.)  
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(October 15, 2014)

FLOOR AMENDMENT #2

Bill No. 2546, Draft 1, A Bill For An Ordinance Amending Chapter 5A, Kaua'i County Code 1987, As Amended, Relating To Real Property Taxes (*Agronomics / Agricultural Use Definition / Reporting*)

Introduced by: GARY L. HOOSER

Amend Bill No. 2546, Draft 1, in its entirety to read as follows:

"SECTION 1. Findings and purpose. The purpose of this bill is to include "Agronomics" as an additional Real Property Tax Rate Classification. This new tax classification shall include parcels which are used for the purpose of supporting the research and cultivation of living organisms or plant materials whose deoxyribonucleic acid (DNA) has been manipulated through genetic engineering techniques resulting in the introduction of new trait(s) that do not occur naturally in the species and that are regulated by the Federal Government.

This bill further clarifies the definition of "agricultural use," by removing "horticulture" and excluding lands that are used primarily for the purpose of the research and cultivation of living organisms or plant materials whose deoxyribonucleic acid (DNA) has been manipulated through genetic engineering techniques resulting in the introduction of new trait(s) that do not occur naturally in the species and that are regulated by the Federal Government. Furthermore, this bill requires the Director of Finance to submit annual reports to the Mayor and the Council of all agricultural dedicated properties, to include, but not be limited to, the name of the land owner, name of each licensee or lessee who is authorized to occupy the property for in excess of one year, Tax Map Key (TMK) of the dedicated area, period of the dedication, size of the dedicated area, description of the existing agricultural use, and amount of taxes.

SECTION 2. Chapter 5A, Section 5A-6.4, of the Kaua'i County Code 1987, as amended, is hereby amended to read as follows:

"(a) For purposes of tax rates, real property shall be classified into one (1) of the following general classes according to the property's actual use unless otherwise provided in this Chapter:

- (1) Residential.
- (2) Vacation rental.
- (3) Commercial.
- (4) Industrial.
- (5) Agricultural.
- (6) Conservation.
- (7) Hotel and resort.
- (8) Homestead.
- (9) Residential Investor.

(10) Agronomics.

Vacant property shall be classified as zoned until actual use is established[, except for vacant property previously classified as apartment shall be classified as hotel and resort until actual use is established]. If a property has multiple actual uses, it shall be classified as the use with the highest tax rate.

(b) When property is divided into condominium units, each unit shall be (1) classified upon consideration of its actual use into one of the general classes in the same manner as other property, and (2) deemed a parcel and assessed separately.

(c) Parcels which are used for no other purpose than as the owner's principal residence shall be classified as "homestead" provided that the owner has applied for and has been granted a home exemption according to Section 5A 11.4. The homestead class shall also include parcels used as the owner's principal residence which are being assessed according to their agricultural use as provided in Section 5A-9.1; provided that the owner has been granted a home exemption and that no portion of the parcel be used for a purpose other than the owner's principal residence and agriculture. The agricultural use shall be limited to the cultivation of crops, pasturing of animals, and cultivation of aquaculture products, and uses which directly support the agricultural activity such as windbreaks, access roads, irrigation ditches and sheltering of farm machinery. Uses which are primarily commercial or industrial in nature, such as importing, selling, refining or distributing agricultural products, shall not qualify for the homestead class. The residentially-used portions of agricultural land shall be assessed according to their value in residential use. The homestead class shall also include parcels used as day care centers by licensed day care providers; provided that the owner has been granted a home exemption, no portion of the parcel is used for any other commercial activity, and that owner has provided a current copy of the day care provider license to the Director on or before September 30th prior to the applicable tax year. The homestead class shall also include parcels that have applied for and have been deemed a long term affordable rental pursuant to Section 5A-11A.1. "Homestead" shall mean properties which are used exclusively as the owner's principal residence, except as otherwise provided in this Section. Uses which shall not qualify as "homestead" include, but are not limited to, the following: (1) real property which is used for commercial, income producing purposes, except for the agricultural, licensed day care, and long term affordable rental uses provided above; and (2) real property which is used for residential rental purposes, whether for long term or short term, except as provided above and otherwise in this Chapter.

(d) [The owner may appeal the property's tax rate classification as in the case of an appeal from an assessment.] For the purposes of this Article, the tax rate classification for Residential Investor shall be applied to properties that do not qualify for the home exemption, are improved with a dwelling unit(s), and not vacant land, and have an assessed value of two million dollars (\$2,000,000.00) or more.

(e) Parcels which are used for the purpose of supporting the research and cultivation of living organisms or plant materials whose deoxyribonucleic acid (DNA) has been manipulated through genetic

engineering techniques resulting in the introduction of new trait(s) that do not occur naturally in the species and that are regulated by the Federal Government shall be classified as "Agronomics."

[(e)] (f) The owner may appeal the property's tax rate classification as in the case of an appeal from an assessment."

SECTION 3. Chapter 5A, Section 5A-9.1, of the Kaua'i County Code 1987, as amended, is hereby amended by amending subsection (a) to read as follows:

"(a) Definitions. As used in this Section:

"Agricultural use" means the use of land on a continuous and regular basis that demonstrates that the owner intends to obtain a monetary profit from cash income received by:

(1) Raising, harvesting, and selling crops;

(2) Feeding, breeding, managing, and selling of livestock, poultry, or honey bees, or any products thereof;

(3) Ranching of livestock;

(4) Dairying or selling of dairy products;

(5) Animal husbandry, provided that the exclusive husbandry of horses for recreational or hobby purposes shall not be considered an agricultural use under this Section;

(6) Aquaculture;

[(7) Horticulture;]

[(8)] (7) Participating in a government-funded crop reduction or set-aside program; or

[(9)] (8) Cultivating of trees on land that has been prepared by intensive cultivation and tilling, such as by plowing or turning over the soil, and on which all unwanted plant growth is controlled continuously for the exclusive purpose of raising such trees.

Factors that shall be considered to determine whether an owner intends to obtain a monetary profit from the listed activities include, but are not be limited to, evidence that the land enjoys County Department of Water agricultural water rates, filed copies from the immediate preceding year of U.S. Internal Revenue Service Schedule F forms showing profit or loss from farming, filed copies of federal fuel tax exemption claims made pursuant to Section 6427(c) of the U.S. Internal Revenue Code, sales receipts generated from the listed activities, a valid, current, State general excise tax license, and covenants, conditions and restrictions encumbering or affecting the property which prohibit or limit agricultural activities.

Physical evidence such as grazing livestock, fences, artificial or natural windbreaks, water facilities, irrigation systems, or crops that are actually in cultivation, or indicia that farm management efforts

such as weed control, pruning, plowing, fertilizing, fencing, or pest, insect, or disease control are occurring on the land, shall also be used as factors to determine whether the land is being used for any of the listed activities.

Agricultural dedication applications involving petitioned areas that are less than one hundred (100) acres in size must have the petitioned area entirely in cultivation and/or production at the time of filing of the petition to dedicate. For agricultural dedication applications that involve petitioned areas of one hundred (100) acres or more, the larger of one hundred (100) acres or fifty percent (50%) of the petitioned area must be in cultivation and/or production at the time of the filing of the application to dedicate. Any approved petitioned areas that exceed the one hundred (100) acre or fifty percent (50%) requirement (aforementioned), but not yet in cultivation and/or production at the time of filing, shall be planted at a rate of ten percent (10%) per year, each year thereafter.

For parcels involved in the ranching of livestock, the entire dedicated area shall have established fences and livestock present at the time of filing a petition to dedicate.

Land areas which are part of a tree farm management plan that was prepared, submitted and is in compliance with K.C.C. Section 5A-11.26 shall be deemed to be in "agricultural use," notwithstanding the fact that said areas are not in cultivation and are yet to be planted. Any area that is not in cultivation or production at the time of the filing of a petition to dedicate shall be planted at a rate of ten percent (10%) per year, each year thereafter, as detailed in a farm management plan to be submitted with the application for agricultural dedication; provided that if the existing tree farm management plan specifies a rate of planting other than ten percent (10%) per year, the rate of planting specified in the tree farm management plan shall prevail and control.

The term "agricultural use" shall not mean uses primarily as yard space, landscaped open areas, botanical gardens, [or the raising of livestock or fruit trees primarily for home use.] the raising of livestock or fruit trees primarily for home use, or for the purpose of the research and cultivation of living organisms or plant materials whose deoxyribonucleic acid (DNA) has been manipulated through genetic engineering techniques resulting in the introduction of new trait(s) that do not occur naturally in the species and that are regulated by the Federal Government.

"Crop" means produce that is raised, harvested and sold to a consumer, and includes produce such as sugar cane, pineapple, papaya, eggplant, beans, truck crops, grain or alfalfa, orchard crops, flowers, nursery or ornamental crops, but excludes (i) produce that is cultivated for science, research or development of crops or parent seed production and (ii) in the urban district, forage crops used for silage or silage, such as hale koa, panicum, pangola, kikuyu, and napier grass, which are deemed to be pasture usages within the urban district.

"Homesite" means any portion of land, on a dedicated parcel intended for existing or future residential use that is not in a dedicated or unusable area, including garages, sheds, yard space, landscaped open areas, and driveways, and not including non-agricultural use



areas such as areas left fallow and/or overgrown with weeds, or portions of driveways used for agricultural use.

Any undedicated or unusable land area on a dedicated parcel will be valued at its proportional share of the fair market value of the total land area of the said parcel. The homesite area for each residential building that is twenty percent (20%) or more complete as of the October 1st assessment date, shall be valued on a building by building basis, at its highest and best use, based on comparable values or similar size lands used as residential use as reflected in the market and shall not include the value of any additional density allowed by the County of Kaua'i's Comprehensive Zoning Ordinance.

"Owner" means possessors of fee simple estates and lessees and licensees holding leases or licenses whose terms extend for at least ten (10) or twenty (20) years, as the case may be, from the year in which the petition to dedicate is filed.

"Parcel" means a subdivided lot or an "apartment" created by the submission of land to a condominium property regime pursuant to the provisions of Hawai'i Revised Statutes Chapter 514A or 514B.

"Petitioned area" means lands within a parcel which are intended to be dedicated to an approved "agricultural use" as described in Section 5A-9.1(a).

"Unusable" means land which is physically incapable of being put to any agricultural use such as gulches, mountains, or pali, eroded bedrock, or rocky, hilly, or barren land."

SECTION 4. Chapter 5A, Section 5A-9.1, of the Kaua'i County Code 1987, as amended, is hereby amended by adding a new subsection (n) to read as follows:

"(n) The Director shall submit annual reports to the Mayor and the Council of all agricultural dedicated properties, to include, but not be limited to, the following:

(1) Name of land owner;

(2) Name of each licensee or lessee who is authorized to occupy the property for in excess of one year;

(3) Tax Map Key (TMK) of dedicated area;

(4) Period of dedication;

(5) Size of dedicated area;

(6) Description of the existing agricultural use;

(7) Taxes resulting from the dedication compared with their market value."

SECTION 5. If any provision of this Ordinance, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to

this end the provisions of this Ordinance are severable.

SECTION 6. Material to be deleted is bracketed. New material is underscored. When revising, compiling, or printing this Ordinance, the brackets, bracketed material, and underscoring need not be included.

SECTION 7. This Ordinance shall take effect upon its approval.”

(Material to be deleted is bracketed. New material to be added is underscored.)  
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